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Planning for our future together



Planning Advice for Farmers

v1 | January 2024

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1 North Devon and Torridge Joint Planning Advice for Farmers	1
2 Agricultural Permitted Development (Part 6 GPDO)	2
What can I do without permission?	2
3 Farm buildings, silage clamps and engineering operations	4
What does a good submission look like:	4
Other development	5
4 Slurry Storage	6
Is planning permission required?	6
Where planning permission is required	7
Air Quality	8
Validation Requirements	10
5 Diversifications activities	11
Renewable Energy	11
Conversion of Buildings	13
Class Q	17
Tourism Development (DM15/ DM18)	22
Other Permitted Development Opportunities for Diversification	24
6 Agricultural Workers Dwellings	27
7 Useful links	28

Contents

1 North Devon and Torrington Joint Planning Advice for Farmers

1.1 This document has been prepared by Planning Officers at North Devon Council and Torrington District Council following discussion with North Devon+, the National Farmers Union and local farmers in order to assist farmers with submission of planning applications and provide advice on permitted development for farm businesses. The document is not formal planning policy and is written to act as signposting guidance for farmers.

2 Agricultural Permitted Development (Part 6 GPDO)

What can I do without permission?

2.1 Permitted development facilitates certain scale and types of agricultural development without the need for planning consent. Where the farm holding exceeds 5 ha, this includes:

- to erect, extend or alter a building
- to carry out excavations and engineering operations needed for agricultural purposes
- though you may still require approval for certain details of the development.

2.2 There are certain parameters within which proposals must fall to be permitted development and a simple prior approval application (or known by most as a 28 day notice) is required for development falling within these permitted development types.

2.3 The development must meet the below criteria to be permitted development:

- **Must be on a parcel of land greater than 1ha**
- **There must have been no development under permitted development Part 3, Class Q (conversion of agricultural building to a house) been carried out in the preceding 10 years.**
- **It cannot include extending a house**
- **It must be for agricultural purposes**
- **The ground area of any engineering operation, works or building cannot exceed 1000m²**
- **If within 3km of an aerodrome development height must not exceed 3 metres**
- **If outside 3km of an aerodrome development must not exceed 12 metres**
- **Development cannot be with 25 of a classified road**
- **Any building/structure for livestock, slurry or sewerage sludge must be 400 metres from any dwelling not associated with a farm business**
- **any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system must be for storage of waste or fuel produced in the land and must be more than 400 metres from any dwellings not associated with a farm business.**

2.4 If your land is within an elevated or sensitive position, or protected landscape such as the Area of Outstanding Natural Beauty, we may request further details on siting and design of the development as part of the 28 day notice therefore careful consideration should be given to the siting of buildings and where possible they should be well related to the established farmstead and take advantage of land form and existing vegetation to create screening.

2.5 Materials for these buildings should be chosen to integrate with the rural backdrop and in most cases timber boarded walls and grey roof coverings will be the most preferable. The provision of native planting should also be considered to screen the building and encourage biodiversity.

2.6 There must also be a clear functional need for the development for the associated agricultural trade or business therefore we may ask for further details on the holding, livestock and other agricultural activities taking place if this information is not clear on the application or following a site visit.

2.7 Certain minor projects such as concreting existing yards, where no engineering operations area required, will not usually require prior approval or planning permission, however if written confirmation of this is needed to secure grant funding we will provide this through the pre-application service at [North Devon Council](#) ⁽¹⁾ or [Torridge District Council](#) ⁽²⁾ as appropriate.

2.8 There are some limited permitted development rights for farm holdings under 5ha which can be found under [Part B of the GPDO](#). You can also contact the planning unit for pre-application advice using the details provided above.

2.9 Where an agricultural development does not fit within permitted development above, a full planning application will be required for the development. See Section 2 below for further details.

Figure 2.1 A modern agricultural barn nestled in the northern Devon countryside (North Devon Council).



1 <https://www.northdevon.gov.uk/planning-and-building-control/pre-application-advice/>

2 <https://www.torridge.gov.uk/preapp>

3 Farm buildings, silage clamps and engineering operations

3.1 The policies within the [North Devon and Torridge Local Plan 2011-2031](#) look to support new and established rural enterprises in the interests of maintaining a strong rural economy for Northern Devon. The Planning Departments understand that changes in other agricultural policies outside of the planning system will result in a demand on the service and wish to work proactively with our farmers to ensure they can achieve appropriate funding deadlines and maintain a prosperous agricultural economy in the area.

3.2 Where planning permission is needed for a new agricultural building matters relating to agricultural need, landscape impacts, design, neighbouring amenity, highway safety, ecological impacts and flood risk and drainage impacts will be considered as part of any application.

What does a good submission look like:

3.3 In order to consider the above appropriately in addition to completed 'application for planning permission' form and relevant fee, we would require the below standard plans:

- Location Plan at a scale of 1:1250 or 1:2500 outlining in red the location of the development along with its access route to the highway
- Existing and Proposed Site/Block Plans at a scale of 1:200 or 1:500
- Existing (where appropriate) and Proposed Elevation and Floor Plan drawings at a scale of 1:50 or 1:100
- Proposed Landscaping Scheme at a scale of 1:200 or 1:500 detailing size, spacing and number of plants to be planted, scheme of maintenance and times of planting

3.4 All plans should include either a scale bar or significant measurement to aid with the digitisation of planning record.

3.5 In addition to these, we would also expect to see the following in certain circumstances:

- Where changes in site levels are proposed an existing and proposed site survey should be supplied at an identified scale and including appropriate cross sections of the site.
- Where a site is likely to impact on ecology, as identified through the application of the [Wildlife Trigger List](#) ⁽³⁾, an ecological appraisal will be required.
- Where trees and hedgerow are affected by the development and Agricultural Impact Assessment would be required.
- Where a development is not part of an established enterprise with existing buildings or is a new building being proposed within 10 year of a Class Q conversion being undertaken, a short statement which explains the farming activities on the holding, including stock numbers, details of the use on any existing building on site, and an accompanying plan showing all land either owned or tenanted.
- Where a livestock building is proposed which increases stock numbers on site, details of the associated slurry/manure storage provision on site and volumes. Depending on the location of the site, this may also trigger a need a [Simple Calculation of Atmospheric](#)

3 <https://www.devon.gov.uk/environment/wp-content/uploads/sites/112/2022/01/wildlifeandgeologytriggerlist-May-17.pdf>

[Impact Limits' \(SCAIL\) assessment](#) ⁽⁴⁾ to assess the impact of ammonia emissions from slurry storage facilities.

- Where engineering operations are proposed, calculations of the amount of soil to be removed and details of where this will be redistributed will be required

3.6 Further details on the type of documents we may ask for as part of a planning application, including the plans above can be found in the Validation checklist requirements for planning applications for [North Devon](#) ⁽⁵⁾ and [Torridge](#) ⁽⁶⁾.

Other development

3.7 Other development such as water extractions ponds, wildlife ponds, and removal of hedgerows will also require certain permission from the Local Planning Authority. Please get in touch with us via our pre-application service and we will advise on the submission requirements and planning considerations.

4 <https://www.scail.ceh.ac.uk/>

5 https://www.northdevon.gov.uk/media/381541/local-list_november-2022.pdf

6 <https://www.torridge.gov.uk/article/21240/Apply-For-Planning-Permission-and-The-Local-List>

4 Slurry Storage

4.1 It is recognised that there is a need for farmers to comply with the Silage Slurry and Agricultural Fuel Oil (SSAFO) regulations⁽⁷⁾. For many dairy farmers, this means having a minimum of 4-6 months storage for slurry, as well as suitable silage storage. It is recommended that farmers/applicants liaise with the Environment Agency at an early stage to ensure farmsteads or proposed equipment will be compliant with the regulations - enquiries@environment-agency.gov.uk. Farmers must tell the Environment Agency at least 14 days before building new storage for silage, slurry or agricultural fuel oil, or making substantial changes to an existing store.

Figure 4.1 Slurry Tank (North Devon Council)



Is planning permission required?

4.2 There are some circumstances where planning permission is not required for a new slurry store, and where proposals are for an earthen slurry lagoon there may not even be a need for applicants to notify the council of the development (prior notification). On established farmsteads, the following criterion need to be complied with for any proposal to be considered 'permitted development':

- The proposal is on a unit of more than 5 hectares and would be carried out on land forming part of the unit which is more than 1 hectare.

7 [The Water Resources \(Control of Pollution\) \(Silage, Slurry and Agricultural Fuel Oil\) \(England\) Regulations 2010](#)

- In the case of a new tank or structure, the tank would not measure more than 1000 square metres, and would exceed 12 metres in height (3 metres if within 3 kilometres of an aerodrome)
- In the case of an earth banked lagoon, the lagoon would not measure more than 0.5 hectares.
- Any part of the development would be within 25 metres of a classified highway
- The proposal would be within 400 metres of a dwelling (which is not a farm)

4.3 Please note that if the proposal relates to a new tank or structure, prior approval will be required. In any event, it is recommended that the Councils pre-application advice service is utilised to check the need for planning consent.

Informative:

4.4 Separate to the above, it is suggested that developers contact Natural England prior to commencing any development, as there may be the need for a Habitats Regulations Assessment (HRA) should the proposal be likely to impact on a European Site (The responsibility lies with the developer to determine whether the permitted development is likely to have a significant effect). In addition, developers would require consent from Natural England should any proposal fall within a SSSI. Applicants should read the 'Air Quality' section below which details how to ascertain/check whether an application is likely to have any significant impacts.

Where planning permission is required

4.5 If it is considered planning permission is required for new slurry storage, the Council will consider the following:

- **Principle of development** - Is the proposal linked to the existing farm/necessary for the livestock on the holding? To assist the Local Planning Authority to ascertain this, a supporting letter from the EA, a calculation using 'slurry wizard' to justify the size of any infrastructure, or a farm audit statement are all useful documents which can assist in justifying the size of new slurry storage.
- **Character and Appearance** – Any new buildings or development will ideally be grouped with existing development to help limit the impact on the areas character, including the landscape impact. A Landscaping scheme may be requested to help limit any harm if necessary.
- **Highways** – If the proposal is likely to result in a significant increase in vehicles using the highway network, then a transport statement may be requested. Due to the nature of new slurry stores this is unlikely (Examples include where the proposal is distanced from the farm or when slurry is proposed to be imported from other farms).
- **Neighbouring Amenity** – The Council will consider if the proposal is likely to result in increased smell, noise, or fly nuisance. This is most likely to be a problem if the new slurry storage is within proximity to a 3rd party neighbour, and in such scenario, addition information (such as odour or noise assessments) may be requested.
- **Heritage** – Should any proposal be in proximity to a heritage asset then a heritage statement will be requested.
- **Ecology** – Each application will need to be accompanied by a wildlife trigger list (insert link). If this indicates that an Ecology Survey is required, this will be requested prior to any development being validated.
- **Air Quality** – The consideration of Air Quality can often result in the biggest delays to applications due to the need for specialist reports and re-consultation. Due to this, it is

appropriate for there to be an individual section of Air Quality, which is detailed further below.

Air Quality

4.6 Air quality is affected adversely by ammonia (NH₃), which is harmful both to the natural environment and human health. 87% of ammonia is produced by the agricultural sector, with dairy and beef contributing 48% of all agricultural emissions. The Council has an adopted [Air Quality Supplementary Planning Document \(SPD\)](#) and section 7 deals specifically with Agricultural Development. The SPD will be a material consideration within any planning decision.

4.7 Depending on the scale and proposed proximity to either a European Protected Site or a Site of Special Scientific Interest, a planning application for a new Slurry Store (or livestock building) may need to be accompanied by an Air Quality Impact Assessment (AQIA). Whether or not an assessment needs to be undertaken in response to proximity to SSSIs or European Designated Sites can be established by consulting the SSSI Impact Risk Zone (IRZ) layer on the Government's [MAGIC website](#)⁽⁸⁾ that provides geographic information on the natural environment. The website also provides a [guide on Impact Risk Zones for SSSIs](#)⁽⁹⁾.

4.8 If the Impact Risk Zone information indicates that the proposal may have an impact, a Simple Calculation of Atmospheric Impact Limits (SCAIL) assessment will be required before the application is made valid. Natural England will be consulted on any SCAIL, and the need for a further Air Quality Assessment will depend on the outcome of the SCAIL and consultation.

4.9 It may be possible to mitigate harm to a SSSI. As a rule of thumb, the larger the surface area of any lagoon, the more emissions, so lagoons with smaller surface areas and/or covers are less likely to cause harmful emissions. The DEFRA mitigation user guide provides a useful starting point for any mitigation where harm is identified, however, specialist documentation/evidence may be required to prove any mitigation will be acceptable. Please note that mitigation will need to be able to be secured via planning condition or legal agreement.

4.10 A Habitats Regulations Assessment (HRA) will be required if the proposal is likely to impact on any 'European Site'. The interactive maps on the [Magic Website](#) can also be used to help ascertain this. The Government also provides [advice on Habitat Regulation Assessments](#)⁽¹⁰⁾ that may prove useful.

4.11 If a HRA is required, the Council can adopt a developer's own HRA, so farmers may wish to get their own done and the LPA can adopt this in combination with Natural England (which is likely to speed up the process). If the Council is required to carry out a HRA, the application documentation will need to be sufficiently detailed to enable this. Please note that any application which causes harm to a European Site is unlikely to be supported (as the council has a legal duty to protect such sites).

4.12 For context, when assessing Air Quality the relevant planning policy is [Policy DM08](#) of the North Devon and Torridge Local Plan 2011-2031, which nicely sets out the considerations depending on the site. [Policy DM08](#) is detailed below:

8 <https://magic.defra.gov.uk>

9 https://magic.defra.gov.uk/metadata_for_magic/sssirz%20user%20guidance%20magic.pdf

10 <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>

Policy DM08: Biodiversity and Geodiversity

(1) Development should conserve, protect and, where possible, enhance biodiversity and geodiversity interests and soils commensurate with their status and giving appropriate weight to their importance. All development must ensure that the importance of habitats and designated sites are taken into account and consider opportunities for the creation of a local and district-wide biodiversity network of wildlife corridors which link County Wildlife Sites and other areas of biodiversity importance.

European Sites

(2) The highest level of protection will be given to potential and existing Special Protection Areas, candidate and existing Special Areas of Conservation and listed or proposed Ramsar sites. Proposals having an adverse impact on the integrity of such areas that cannot be avoided or adequately mitigated to remove any adverse effect will not be permitted other than in exceptional circumstances. These circumstances will only apply where there are:

(a) no alternative solutions;

(b) imperative reasons of overriding public interest; and

(c) necessary compensatory provisions secured to ensure that the overall coherence of the Natura 2000 network of European sites is protected.

(3) Development will only be supported where any necessary mitigation is included such that, in combination with other plans or projects, there will be no adverse effects on the integrity of European Nature Conservation Sites.

National Sites

(4) Development proposals within or outside a Site of Special Scientific Interest or Marine Conservation Zone which would be likely to affect the designation adversely, either individually or in combination with other developments, will not be supported unless the benefits of the development at this site clearly outweigh both the adverse impacts on the site and any adverse impacts on the wider network of Sites of Special Scientific Interest and Marine Conservation Zones.

Local Sites

(5) Development likely to affect adversely locally designated sites, their features or their function as part of the ecological network, including County Wildlife Sites, County Geological Sites and sites supporting Biodiversity Action Plan habitats and species, will only be permitted where the need for and benefits of the development clearly outweigh the loss, and the coherence of the local ecological network is maintained.

Protected Species and Habitats

(6) Adverse impacts on European and UK protected species and Biodiversity Action Plan habitats and species must be avoided wherever possible, subject to:

- (i) the legal tests afforded to them where applicable; or otherwise unless
- (ii) the need for and benefits clearly outweigh the loss.

Ancient Woodland and Veteran Trees

(7) Development must avoid the loss or deterioration of ancient woodland and veteran trees, unless the need for, or benefits of development on that site clearly outweigh the loss.

Avoidance, Mitigation and Compensation for Biodiversity and Geodiversity Impacts

(8) Development should avoid adverse impact on existing features as a first principle and enable net gains by designing in biodiversity features and enhancements and opportunities for geological conservation alongside new development. Where adverse impacts are unavoidable they must be adequately and proportionately mitigated, If full mitigation cannot be provided, compensation will be required as a last resort.

Validation Requirements

4.13 New applications for planning permission will be required to meet with the minimum standards set out within the councils adopted Local Validation List for [North Devon](#)⁽¹¹⁾ or [Torridge](#)⁽¹²⁾ as appropriate.

4.14 Requirements will include:

- Application Form
- The correct fee
- Planning Statement (including justification for the proposal)
- Location Plan
- Site Plan
- Elevation Drawings (existing and proposed where relevant)
- Sections
- Floor Plans
- A SCAIL Assessment (see above)
- A heritage statement (where in proximity to a heritage asset)
- Wildlife Trigger List (including wildlife report if necessary)

¹¹ <https://www.northdevon.gov.uk/planning-and-building-control/making-a-planning-application/the-local-list>

¹² <https://www.torridge.gov.uk/article/21240/Apply-For-Planning-Permission-and-The-Local-List>

5 Diversifications activities

Renewable Energy

Figure 5.1 Cluster of wind turbines (Wikimedia)



5.1 Over recent years there has been growing interest in producing renewable energy at a farm scale in order to supplement farm energy supplies as well as diversify farm income. Below are some of the comment projects and how these are considered by the Local Authorities:

- Wind turbines– At present national and local level policy places significant restrictions on the development on onshore wind energy at a domestic or commercial scale unless it is in an area identified as suitable for wind energy development. As part of the North Devon and Torridge Local Plan making process, the Council's opted not to identify any area as suitable for wind energy development, and at present there are no Local Development Orders, Neighbourhood Development Orders or Community Right to Build Orders in place, therefore at this time any development proposals for wind turbines of any scale would be likely to be refused. Paragraph 158 of the National Planning Policy Framework was updated on 5th September 2023 to the following:

158. When determining planning applications^{53a} for renewable and low carbon development, local planning authorities should:

(a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions;

(b) approve the application if its impacts are (or can be made) acceptable⁵⁴. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas; and

(c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site, and approve the proposal if its impacts are or can be made acceptable.

Footnotes:

(53a) Wind energy development involving one or more turbines can also be permitted through Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders. In the case of Local Development Orders, it should be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.

(54) Except for applications for the repowering and life-extension of existing wind turbines, a planning application for wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan or a supplementary planning document; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.

Figure 5.2 Field scale solar farm (wikimedia)



- Solar Photo Voltaic Arrays – The National Planning Policy Framework and [Policy ST16: Renewable Energy](#) of the North Devon and Torrridge Local Plan 2011-2031 are supportive of renewable energy solutions subject to meeting other planning considerations in relation to landscape impact, amenity impact, ecology, highways

safety and flood risk and drainage. Solar PV can seek to deliver renewable energy generation with lesser landscape impacts than other methods where appropriately sited.

5.2 In the first instance, we would encourage the siting of panels of existing farm buildings or yard areas where possible to avoid loss of farmland or biodiversity. It is however permissible where panels cannot be sited on buildings to support panels on farmland subject to a full assessment of the above aforementioned planning considerations.

- Anaerobic Digesters – AD plants are commonly being utilised for the purposes of disposing of excess farm waste (slurry) in order to generate electricity to support the farm and/or to feed back into the National Grid where grid capacity exists. AD plants are usually proposed on large scale farms or serving a cooperative of farms who feed both crops and waste into the AD to aid generation. The consideration of AD plants as planning application can be quite complex due to considerations around traffic movement to and from the site and storage and emissions of materials on site. Again the planning considerations in relation to landscape impact, amenity impact, ecology, highways safety and flood risk and drainage would apply and we would strongly suggest the engagement in a pre-application enquiry if you are considering installation of an AD plant at your farm.

Figure 5.3 Anaerobic Digester (Torrige District Council)



Conversion of Buildings

Planning permission

5.3 Both local and national planning policy are supportive of the re-use and conversion of redundant rural buildings. [Policy DM27](#) of the North Devon and Torrige Local Plan states:

Policy DM27: Re-use of Disused and Redundant Rural Buildings

The conversion of redundant and disused rural buildings will be supported where:

- (a) such conversion would not harm any intrinsic qualities and historic interest of the building;**

(b) the proposal will have a positive impact on the immediate setting of the building and the wider rural character is protected;

(c) development can be achieved without significant external alteration, extension or substantive rebuilding;

(d) suitable highway access can be provided and the surrounding highway network can support the proposed use(s); and

(e) any nature conservation interest within the building or wider site is retained.

5.4 [Policy DM27: Re-use of Disused and Redundant Rural Buildings](#) supports the reuse of redundant or disused rural buildings for residential, tourism or economic uses subject to satisfying a range of criteria and compliance with other relevant Local Plan policies. For the conversion of rural buildings within Rural Settlements, the local occupancy requirements set out in [Policy DM24: Residential Development in Rural Settlements](#), will not apply. There is no restriction on the type, age, or historic use of the buildings which can be considered, providing that the proposal would meet with the above criterion (a-e). For clarity, this section will detail the considerations of [Policy DM27](#), so that applicants can understand what Planning Officers will be looking for to support any application.

Redundant or disused?

5.5 The first consideration for this policy is whether the proposal can be considered 'redundant'. The terms disused and redundant are not defined within the local plan nor in planning legislation, national planning policy or guidance. As such, ordinary dictionary definitions will be utilised as the starting point: Disused - "the condition of not being used (any longer)" Redundant – "unnecessary because it is more than is needed".

5.6 Consideration of whether the building is disused or redundant is a matter for the decision-taker. Applicants should however provide sufficient information as part of the application to enable the decision-taker to establish whether the building can be reasonably considered to be disused or redundant. This information should clearly explain the circumstances as to why the building is no longer required for the intended purpose.

5.7 The Council will not be supportive of the conversion of rural buildings, if it is likely to put pressure on the development of further buildings because of the loss of a building (for example if the development of a stable will result in a need for a new stable, it will not be supported).

What regard needs to be given to heritage interests in a building?

5.8 Criterion (a) of the policy requires that development associated to the re-use of the building does not harm any intrinsic qualities or historic interests of the building. The potential impacts of a proposal on any heritage assets will also be considered through the application of the wider provisions of the development plan, including [Policy ST15: Conserving Heritage Assets](#) and [DM07: Historic Environment](#), along with relevant aspects of national planning policy.

5.9 If a building has historic merit (such as being of stone and cob construction and is curtilage listed) then a heritage statement may be requested at the validation stage.

What is expected in response to the requirement to ‘have a positive impact on the immediate setting of the building’?

5.10 It is necessary for this to be considered on a case by case basis; based on a judgement on whether the proposal provides a demonstrable improvement. In considering how to achieve a positive impact, applicants may wish to give thought to matters such as layout, access, materials and boundary treatments. Proposals should ensure that they take opportunities to maximise the positive impact that can be achieved.

5.11 The approach is generally reflective of the provisions of the National Planning Policy Framework (NPPF) which provide support for the re-use of disused and redundant buildings but require the development to “enhance its immediate setting”. Importantly the policy requires not only that the proposal would deliver a positive impact on the immediate setting but that the wider rural character is protected; with this element being more about how the proposal would affect wider landscape character.

5.12 To assess good design and positive impact, Planning Officers will also utilise [Policy DM04: Design](#) in the North Devon and Torridge Local Plan 2011-2031, which seeks to reinforce the characteristics of the area in which the development is proposed, and [Policy DM08A: Landscape and Seacape Character](#) which advises that development should be respectful of landscape character.

What constitutes ‘significant external alterations’ or ‘substantive rebuilding’?

5.13 Criterion (c) of [Policy DM27](#) in the North Devon and Torridge Local Plan 2011-2031 requires development to be achieved without significant external alteration or substantive rebuilding. The local plan does not define the terms significant external alteration or substantive rebuilding, nor are they defined in national planning policy or relevant legislation. In lieu of a planning definition, ordinary dictionary definitions of significant and substantive can provide a useful the starting point for the application of the policy provisions:

- Significant – ‘important, notable, or momentous’
- Substantive – ‘of considerable amount or quantity; substantial’

5.14 The application of the policy provisions will require judgement and pragmatic application by the decision taker. As a yardstick, the replacement of a large part of external walling, or the replacement of the entirety of the roof structure and would normally be taken by the local planning authority as constituting substantive rebuilding. Equally, the replacement of more modest elements, in combination, could also collectively be determined to be substantive.

5.15 Any works to the building, taken together, must not be so extensive that, in the judgement of the local planning authority, they could no longer reasonably be considered to result in the conversion of the existing building.

Figure 5.4 Traditional stone barn (North Devon Council)



Highways

5.16 Applications which result in significantly increase highways movements through a substandard access are unlikely to be supported without mitigation. [Policy DM05: Highways](#) requires that all development must ensure safe and well-designed vehicular access and egress, therefore consideration will need to be given to the need for appropriate visibility splays, passing bays and site drainage when considering alternative use of an existing access or creation of a new access to serve a [Policy DM27](#) development.

Ecology

5.17 Redundant or disused rural buildings can often serve as habitats for a range of wildlife including bats and barn owls. Some of these are protected species, subject to legal protection through a range of national and European legislation. Consequently, proposals for rural building conversion should be accompanied and informed by a habitat survey by a suitably qualified person and provide appropriate mitigation measures as necessitated by development. [Policy DM08: Biodiversity and Geodiversity](#) will apply.

Amenity

5.18 [Policy DM01: Amenity Considerations](#) and [Policy DM02: Environmental Protection](#) of the North Devon and Torridge Local Plan relate to Amenity and Environmental Protection. The Councils Environmental Protection Teams may be consulted on applications where there is a potential for nuisance or amenity concerns, such as near slurry lagoons, livestock

housing or kennelling etc. Applications for residential development will not be supported where there are likely to be poor living conditions for future residents as a result of existing uses.

5.19 Contamination surveys may be requested if the historic use of the building indicates there may be concerns (such as vehicle or chemical storage).

Validation Requirements

5.20 New applications for planning permission will be required to meet with the minimum standards set out within the councils adopted Local Validation List for [North Devon](#)⁽¹³⁾ or [Torridge](#)⁽¹⁴⁾ as appropriate.

5.21 Requirements will include:

- Application Form
- The correct fee
- Location Plan
- Site Plan (including parking and details of soakaways)
- Elevation Drawings (existing and proposed)
- Sections
- Floor Plans
- Rural Building Conversion - Justification Statement
- A Heritage statement (where in proximity to a heritage asset)
- Flood risk assessment (if within the flood zone)
- Foul drainage assessment (if not connecting to mains)
- Wildlife Report
- Structural Survey

5.22 A landscaping scheme, contamination statement, and/or arboricultural statement may be requested during the determination of the application where necessary.

Class Q

5.23 The regulations under Class Q were introduced to allow for agricultural buildings to be converted into dwellings without the need for full planning permission. This is subject to going through a prior notification procedure, which includes submitting an application to the Council. If any conversion works have already commenced, an application for prior notification cannot be submitted and a full planning application would be required.

5.24 Notifications will need to include:

- A written description of the proposed development, which must include any building or other operations;
- A plan indicated the site and showing the proposed development.
- A statement specifying the net increase in dwellinghouses proposed by the development
- A statement specifying the number of smaller and larger dwellinghouses proposed

13 <https://www.northdevon.gov.uk/planning-and-building-control/making-a-planning-application/the-local-list>

14 <https://www.torridge.gov.uk/article/21240/Apply-For-Planning-Permission-and-The-Local-List>

- A floor plan indicating the total floor space in square metres of each dwellinghouse, the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses;
- The developer's contact address;
- The developer's email address if the developer is content to receive communications electronically;
- A Flood Risk Assessment if within Flood Zone 2 and 3.
- Any fee to be paid.

5.25 *Please note that notifications cannot include multiple buildings.

5.26 To consider the Class Q, Planning Officers will first check that the proposal complies with the Criterion set out within the Permitted Development Order. These are summarised below:

- The building is an agricultural building and was in an agricultural use as part of an established agricultural unit on the 20th March 2013, or for a period of at least 10 years.
- No more than 3 larger dwellings or 5 smaller dwellings have been developed on the holding as a result of Class Q
- 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 does not exceed 465 square metres;
- If the site is occupied under an agricultural tenancy, the express consent of both the landlord and the tenant has been obtained;
- If within 1 year before the development begins, an agricultural tenancy has been terminated for the purpose of carrying out Class Q, then the proposal will not be accepted
- If agricultural permitted development has been carried out on the holding within the last 10 years, the proposal would not be considered permitted development.
- The development cannot result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;
- Building operations must be reasonably necessary for the building to function as a dwelling.
- Class Q cannot be utilised on article 2 (3) land (Conservation Area, AONB, National Park, World Heritage Site).
- Class Q cannot be utilised if the proposal relates to a listed building or scheduled monument
- Class Q cannot be utilised if the within is within a SSSI, Safety Hazards Area, or military explosives zone.
- The curtilage of the building cannot be any larger than the building itself.

5.27 If the development would comply with the above points, then the Planning Officer will proceed to consider the following 'prior approval' considerations.

- 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,

5.28 The following points are guidance based upon frequently asked questions:

What works are permitted under the Class Q permitted development right for change of use from an agricultural building to residential use?

5.29 Building works are allowed under the right permitting agricultural buildings to change to residential use (Class Q). However, the right assumes that the agricultural building is capable of functioning as a dwelling. 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. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. 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.

5.30 To consider whether a building is a ‘conversion’ an officer will consider the extent of works being undertaken. Generally speaking, if substantial building works are required (such as the replacement of a significant amount of walling and roofing), then the proposal would not be considered to benefit from the permitted development right for conversion. For further discussion on the difference between conversions and rebuilding, see the [‘Hibbitt’ High Court Judgement^{\(15\)}](#).

Are structural works allowed?

5.31 As set out in the planning practice guidance, internal works are not generally development. For the building to function as a dwelling, it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q.

5.32 Therefore it is acceptable that internal structural works are allowable providing they do not amount to substantive re-building. If the Council is in doubt about the capability of the structural stability of the building, a structural survey may be requested.

What is impractical or undesirable?

5.33 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”.

5.34 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.

15 Hibbitt and Another vs Secretary of State for Communities and Local Government (1) Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

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.

5.35 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.

5.36 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.

Residential amenity considerations

5.37 Farms commonly have odour, insect and noise generation which when located close to a dwelling, particularly where it becomes outside the ownership of the original farm, can result in complaints under Environmental Health legislation. These complaints have the potential to prejudice the function of the farm enterprise and as such all proposals are subject to consultation with the Council's Environmental Health department.

5.38 In circumstances where functional farm buildings and slurry/manure storage is nearby, this can form a reason for refusal of an application. Please carefully consider the use of surrounding buildings prior to submitting an application and where possible annotate site plans indicating how the other farm buildings on site are used as this can assist Environmental Health in their consideration of the proposals. Not all agricultural buildings may be appropriate for conversion due to their proximity to other buildings or uses which have the potential to detrimentally impact on the amenities of future occupiers.

If an ecology survey required?

5.39 It is not a validation requirement for an ecology survey to be submitted. If the case officer has any concerns that the proposal may impact on a protected species, then an ecology survey can be requested.

What are the timescales?

5.40 Once an application has been registered, the Council is required to determine an application within 56 days (unless an extension of time is agreed).

5.41 If permission is granted, the development must be **completed** within three years.

Useful Links

- Permitted Development Order: <https://www.legislation.gov.uk/ukxi/2015/596/contents/made>
- Planning Practice Guidance: <https://www.gov.uk/guidance/when-is-permission-required>

Figure 5.5 Converted Barn (Wikimedia)



Fallback – Building a new build dwelling in place of a Class Q conversion

5.42 It is established in case law that permitted development rights can legitimately represent a fallback position when considering alternative proposals for development of the same site. In relation to Class Q, the '[Mansell Court of Appeal Judgement](#)'⁽¹⁶⁾ is relevant, which clarifies that where there is a real prospect that development may take place, a 'fall back' application can be considered.

5.43 In order for the Councils to determine whether there is a 'real prospect'/ a possibility that development may take place, the Councils will expect either a Planning Application or Class Q to have been determined and approved prior to considering any 'fall-back'.

5.44 The Mansell case does not specifically require any fall-back to result in betterment, however, there would be an expectation that a 'betterment' or planning gain is provided. Having regards to national policy, the concept of 'betterment' is briefly found in paragraph 80 of the National Planning Policy Framework.

80.Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

c) the development would re-use redundant or disused buildings *and enhance its immediate setting*;

16 Mansell v Tonbridge And Malling Borough Council [2017] EWCA Civ 1314

5.45 Betterment is also briefly discussed in [Policy DM26:Replacement Dwellings](#) of the North Devon and Torridge Local Plan 2011-2031, although the policy is not directly applicable to the consideration of a fall back scheme.

5.46 There is no definition of what a betterment can or cannot consist of and this is a judgement for the Officer. Any supporting documentation should detail what betterment is provided as a result of the scheme. Examples of betterment could include (but are not limited to):

- Increases in sustainability
- Improved design
- Ecological enhancements
- Better landscaping or materials
- Increased amenity for existing residents

Tourism Development (DM15/ DM18)

5.47 The North Devon and Torridge Local Plan 2011-2031 currently has enabling policies for existing farm enterprises to diversify income through alternative development. [Policy DM15: Farm Diversification](#) of the Local Plan, as set out below, applies only to existing farms businesses and enables the development of new tourism enterprises or other small scale economic activities such as food processing or alternative crop production, subject to being appropriate in the rural area.

Policy DM15: Farm diversification

In support of the agricultural sector, proposals for farm diversification schemes will be supported where:

(a) the scale of development is justified by the operational needs of the enterprise and will reinforce the viability of the existing farm business;

(b) the prospects for the reuse of vacant buildings, underused, or redundant agricultural buildings or their sites have been explored fully and opportunities exhausted;

(c) any new buildings are sited close to existing buildings and can be satisfactorily assimilated into the surrounding countryside having regard to form, bulk, design, landform, landscaping, special landscape qualities and character;

(d) the development will not detract unreasonably from the amenities of the occupiers of accommodation in the vicinity; and

(e) there is no resultant unacceptable increase in traffic on approach roads or detriment to the safety of users of the public highway

5.48 The policies relating to this type of development require evidence as part of the planning submission of the existing farm enterprise and that the diversification activities would be complementary rather than replace the existing agricultural income completely. Further information on this can be found within the supporting text on pages 430 and 431 of the [North Devon and Torridge Local Plan](#).

5.49 As with any type of development, any proposals will need to meet the objectives of the development plan as a whole therefore matters of design, landscape impact, neighbouring amenity, highway safety, ecological impacts and flood risk and drainage will all be considered as part of a planning application.

5.50 In conjunction with the above policy, if you are considering an on farm tourism enterprise, and you can demonstrate it will complement the existing farm business rather than replace it, [Policy DM18](#) would be applied to any potential development and the exceptions of [Policy DM15](#) above, allow for both new tourism development and well as expansion of existing under farm diversification:

Policy DM18: Tourism Accommodation

(1) Development of new, and expansion or rationalisation of existing tourism accommodation will be supported within the Sub-regional, Strategic, Main and Local Centres where it:

- (a) improves the quality or increases the diversity of northern Devon's tourism offer;***
- (b) is located and designed to protect and enhance the character and setting of the settlement; and***
- (c) any rationalisation would facilitate the retention or improvement of the tourism accommodation.***

(2) Outside the Sub-regional, Strategic, Main and Local Centres, the development of new and the expansion or rationalisation of existing tourism accommodation will be supported where it:

- (a) is related directly to and compatible in scale with an existing tourism, visitor or leisure attraction; or***
- (b) reuses or converts existing buildings; or***
- (c) improves facilities for or diversifies the range or improves the quality of existing tourism accommodation;***

and in all cases:

- (d) the scale and character of the proposal is appropriate to the size of the existing settlement or tourism attraction;***
- (e) the local road network can accommodate the type and scale of traffic to be generated and the safety of public highway users is maintained;***
- (f) is designed to respect and enhance the key characteristics of the relevant landscape character types;***
- (g) identified environmental and heritage assets are not subject to significant harm, are conserved or enhanced, with particular respect to the setting and special qualities of nationally important landscapes, the Undeveloped Coast, biodiversity and heritage designations; and***

(h) protects and enhances the setting and special qualities of the Area of Outstanding Natural Beauty and provides an overall environmental enhancement when assessed throughout a year.

5.51 We would advise that if you are considering a farm diversification proposal that applicants engage in a pre-application enquiry with [North Devon Council](#) ⁽¹⁷⁾ or [Torridge District Council](#) ⁽¹⁸⁾ as appropriate.

Other Permitted Development Opportunities for Diversification

Part 4, Class BC – Temporary Recreational Campsites

“Development consisting of—

(a) the use of any land as a recreational campsite for not more than 60 days in total in any calendar year; and

(b) the provision on such land of—

(i) not more than 50 pitches; and,

(ii) any moveable structure reasonably necessary for the purposes of the permitted use.”

5.52 Permitted Development already allowed for the temporary use of any land for a total of 28 days and temporary structures associated with that use. Recent amendments to the GPDO now allow for any land may be used as a campsite for tents and motorhomes (not towed or static caravans) for a total of 60 days per year.

5.53 Toilet and waste disposal facilities would need to be provided and have to be temporary structures. Permanent structures proposed for any camping facilities would be subject to separate Planning Applications, and may be more contentious in terms of their likelihood for approval given that these locations are normally rural.

5.54 A site plan would need to be provided that shows the facilities provided and the dates when the site would be in use. We would consult The Fire Service who will provide advice/ requirements in terms of fire safety that developers must follow. If the site is within Flood Zone 2 or 3, Prior Approval would be required.

¹⁷ <https://www.northdevon.gov.uk/planning-and-building-control/pre-application-advice/>

¹⁸ <https://www.torridge.gov.uk/preapp>

Figure 5.6 Campsite (Wikimedia)



Part 3, Class R – Change of Use from Agricultural Buildings to Commercial

“Development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use falling within one of the following provisions of the Use Classes Order—

- (a) Class B8 (storage or distribution) of Schedule 1;*
- (b) Class C1 (hotels) of Schedule 1; or*
- (c) Class E (commercial, business or service) of Schedule 2.”*

5.55 This class of the GPDO allows for the provision of flexibility and create opportunities for diversification of rural businesses and/or owners of agricultural buildings. Class R permits the Change of Use of an ‘agricultural building’ to Class B8, C1 or E use, with Class E use being particularly flexible. Class E uses include: retail and the sale of goods, including the sale and consumption of food and drink; professional services; some sporting uses, gyms or recreation activities; office; industry; research and development; health services; and, day care centre.

5.56 While Class R applications permit the Change of Use as described above, the Use Class given to the building(s) would be ‘Sui Generis’ (no specific Use Class) and any future Change of Use may require Planning Permission.

5.57 The ‘agricultural building(s)’ must have been solely in agricultural use for the last 10 years or more (or for 10 years or more since it was last in use). The total cumulative floor area must not exceed 500 square metres. The building(s) must not be: a listed building (or within the curtilage of a listed building); a scheduled monument; be within or form part of a safety hazard area; or form part of an explosives storage area.

5.58 For buildings under 150 square metres, the Local Planning Authority need to be advised in writing and there is no need to wait before the development can start. For building exceed 150 square metres, the developer must submit a 56 day notice for Prior Approval. Prior Approval may not be given due to highway, amenity, environmental or flooding reasons, so the developer should wait until Prior Approval is given before the commencing the development. Please note that external changes to the building may separately require Planning Permission.

Figure 5.7 Wedding guests mingling in a farm courtyard (North Devon Council)



5.59 Useful Links

- Permitted Development Order: <https://www.legislation.gov.uk/uksi/2015/596/contents/made>
- Planning Practice Guidance: <https://www.gov.uk/guidance/when-is-permission-required>

6 Agricultural Workers Dwellings

- The Council's understand that in order to appropriately manage certain farm enterprises there will often be a need for one or more workers to be resident on site. Torridge and North Devon have a [joint Rural Workers' Dwellings Supplementary Planning Document \(SPD\)](#) ⁽¹⁹⁾ which explains the requirements for Rural workers dwellings which should be the first reference when thinking about applying for a first or further agricultural workers dwellings on farm.

19 <https://consult.torridge.gov.uk/file/5603194>

7 Useful links

Planning Permission for Farms

- <https://www.gov.uk/planning-permissions-for-farms>

Developing farmland: regulations on land use

- <https://www.gov.uk/guidance/developing-farmland-regulations-on-land-use>

Permitted Development Regulations

- <https://www.legislation.gov.uk/uksi/2015/596/contents/made>

National Planning Policy Framework (NPPF)

- <https://www.gov.uk/guidance/national-planning-policy-framework>

Planning Practice Guidance (PPG)

- <https://www.gov.uk/government/collections/planning-practice-guidance>

Historic England – Traditional Farm Building Guidance

- <https://historicengland.org.uk/advice/caring-for-heritage/rural-heritage/farm-buildings/>

Historic England – Support and Funding

- <https://historicengland.org.uk/advice/caring-for-heritage/rural-heritage/support-and-funding/>

SCAIL

- <https://www.scail.ceh.ac.uk/>

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