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# Appeal Decision

Site visit made on 8 September 2015

**by Roger Catchpole Dip Hort BSc (Hons) PhD MCIEEM**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 18 September 2015**

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**Appeal Ref: APP/Y2736/W/15/3013905**

**Former Council Depot, Manor Vale Lane, Kirbymoorside YO62 6EG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class J of The Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mrs V Greetham against the decision of Ryedale District Council.
  - The application Ref 14/01262/GPCOU, dated 13 November 2014, was refused by notice dated 8 January 2015.
  - The development proposed is the conversion of office to residence.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The provisions of paragraph J.1 of the Town & Country Planning General Permitted Development Order 1995 (as amended) (GPDO) set out a number of exclusions where development is not permitted. Before the individual merits of a proposal can be evaluated against the three specified matters defined in paragraph J.2, it is necessary to determine whether or not the development is permitted. In situations where this is not the case, the appeal must be dismissed. Under such circumstances no further consideration will be given to the effect of the proposal on the specified matters or its consistency with relevant local or national policies. This is the basis on which this appeal has been determined.

## Main Issue

3. The main issue is whether or not the proposal constitutes permitted development.

## Reasons

4. The Council have argued that the proposed change of use is excluded under paragraph J.1b of the GPDO because the building was not an office falling within Class B1(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO) owing to the fact that it was part of a larger planning unit that had a sui generis use as a Council highways depot. Consequently, the office use was considered to be ancillary to this main use and therefore not within Class B1(a) of the UCO.
5. I observed that the appeal building comprises a single-storey, block work building. It adjoins a number of storage buildings that were associated with

the former use of the site. The depot extends along the eastern side of Manor Vale Lane and also includes an area on its western side, to the north of the appeal building. The depot is characterised by extensive hard standing, storage buildings and a number of other, temporary, buildings. The hard standing immediately in front of the appeal building extends across the frontage of the adjoining buildings. The ownership includes the whole depot.

6. Case law<sup>1</sup> has established that the unit of occupation on sites with a variety of activities constitutes the planning unit unless a smaller unit can be identified from its physical and functional identity. When this is the case, it can only be considered as a separate planning unit if it is occupied for substantially different and unrelated purposes. By the appellant's own admission, the appeal building supported the use of the site as a depot and I therefore consider it to be ancillary. Bearing in mind the layout of the site and in the absence of any substantiated evidence to the contrary, I am not satisfied that the office had a separate physical or functional identity or that its treatment as a separate planning unit is justified, irrespective of any subsequent permission to demolish buildings elsewhere in the depot.
7. In order to benefit from the provisions of Schedule 2, Part 3, Class J of the GPDO the proposed change of use must be from B1(a) of the UCO. In this case the proposal would convert a building that was part of an overall sui generis use and, therefore, is not permitted development. Consequently, it is development for which an application for planning permission is required. An application for planning permission (or a certificate of lawfulness) would be a matter for the local planning authority to consider in the first instance and cannot be addressed under the prior approval provisions set out in the GPDO. Accordingly, the appeal is dismissed.

### **Other Matter**

8. The appellant identified a number of factors in support of the proposal that included the re-use of the building; development of previously used land; meeting housing needs; and the undisputed fact that the site is within the settlement limit. However, as the proposal is not permitted development such matters cannot be considered in this appeal and are more appropriately addressed through an application for planning permission.

*Roger Catchpole*

INSPECTOR

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<sup>1</sup> Burdle v Secretary of State for the Environment [1972] 1 WLR 1207