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## Appeal Decision

Site visit made on 21 March 2016

**by Susan Heywood BSc(Hons) MCD MRTPI**

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

**Decision date: 23 March 2016**

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**Appeal Ref: APP/Y2736/W/15/3140213**

**Pheasant Hill Farm, Ebberston, Scarborough, North Yorkshire YO13 9PB**

- 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 Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mrs Sara Grewer against the decision of Ryedale District Council.
  - The undated application Ref 15/00569/GPAGB was refused by notice dated 26 June 2015.
  - The development proposed is the change of use of agricultural building to a one bedroom dwelling (Use Class C3).<sup>1</sup>
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) grants planning permission for certain forms of development, including the change of use of an agricultural building to a dwellinghouse along with associated works provided that certain limitations and restrictions are complied with.
3. Class Q(a) of the GPDO relates to the "change of use of a building and any land within its curtilage". Curtilage is defined as "(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."<sup>2</sup>
4. The building does not have a clearly defined curtilage on the ground. In the appeal before me the red line of the application site is drawn tightly around the agricultural building indicating that it would have no curtilage. However the block plan shows that an area would be provided to the south and west of the building, annotated as "proposed curtilage" and "parking". It would appear (if the scale of the block plan is correct) that the identified curtilage would be

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<sup>1</sup> I have used the description of development on the Council's decision notice as none is provided on the application form.

<sup>2</sup> GPDO, Schedule 2, part 3, paragraph X

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larger than the land area occupied by the agricultural building.<sup>3</sup> This would mean that the proposal could not be permitted development under Class Q(a). Consequently, I have determined this appeal on the basis of the red line shown on the aerial photograph accompanying the application ie. that the proposed dwelling would have no curtilage. The proposal would therefore be permitted development under Class Q(a).

### **Main Issue**

5. The Council has confirmed, having regard to GPDO paragraph Q2, that the proposal would not raise any concerns regarding transport and highway issues, contamination, flood risk or design. Nor is there any indication that noise impacts of the development (Paragraph Q2(b)) would be of concern. The **main issue** in this appeal therefore, having regard to paragraph Q2(e), is whether the location or siting of the building makes it otherwise impractical or undesirable for the building to be used as a dwelling, taking into account the effect that the nearby agricultural activities would be likely to have on the living conditions of future residents.

### **Reasons**

6. The appeal site lies within the open countryside to the north west of Ebberston. The barn the subject of the appeal sits within a complex of farm buildings set within a large concrete yard. Access is gained from a long driveway to the south. Three large barns are located to the west of the appeal building. Two of these are open fronted and one has a large roller shutter door, all of these openings face the central yard in which the appeal building is located.
7. A further barn lies to the north of the appeal building and another to the north east. Three of the buildings, those to the north west, north and north east, house a herd of deer during the winter months. The remaining two buildings contain storage of machinery, feed and sundries. The deer are also kept in part of the open yard to the north. The appellant pointed out that the yard to the immediate east of the appeal building is used to transfer the deer from the buildings and yard to the fields. A number of droppings were evident in this area at the time of my visit.
8. The appeal building comprises a two storey stone barn and a single storey concrete block lean-to structure. The proposal would be to convert this building into a one-bedroom dwelling. The majority of the openings at ground floor would face the south. At first floor small openings face north and south and a larger opening faces the yard to the east. These existing openings would be used as windows and a door, the latter creating what appears to be a Juliette balcony, in the converted dwelling.
9. The main access to the livestock barn to the north east passes to the front of the appeal building and would be close to the principal openings in the dwelling. Use of this access to serve the barn would be likely to result in noise and disturbance to the occupiers of the property. The proposed opening and Juliette balcony at first floor would overlook the yard area to the east and use of this area by livestock, vehicles and / or machinery would similarly cause noise and disturbance in close proximity to the first floor bedroom balcony.

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<sup>3</sup> The line of the curtilage to the north of the building is not defined on the block plan. However, I have assumed that the proposed curtilage would not project northwards beyond the line of the existing building.

10. The proposed dwelling would effectively be surrounded on all four sides by the farm yard and, other than the barn to the north of the proposed dwelling, the majority of the openings in the farm buildings face the central yard where the appeal building is located. The proximity of the proposed dwelling to the farm buildings and yard would result in noise and disturbance to future occupiers. The activities likely to be taking place within this yard, including the movement of vehicles and livestock and access to the various buildings, would result in a poor living environment for future occupiers of the dwelling.
11. The Planning Practice Guidance states that 'undesirable' in the GPDO means 'harmful or objectionable'.<sup>4</sup> For the above reasons the proposed change of use would be undesirable in this location due to the harmful effect of the farming operations on the living conditions of future occupiers.
12. Paragraph W(10)(b) of Schedule 2, Part 3 of the GPDO requires that regard must be had to the National Planning Policy Framework so far as relevant to the subject matter of the prior approval. One of the core principles set out in paragraph 17 of the Framework is to seek a good standard of amenity for existing and future occupiers of land and buildings. The proposed change of use would conflict with this core principle.
13. The appellant states that the farm yard is not noisy and on most days there is little activity. Nevertheless, the existing barns are large buildings which house machinery and feed as well as livestock. These will undoubtedly generate vehicle movements and activity which, even if not occurring on a daily basis, will create a generally poor living environment for future occupiers of the dwelling. Whilst many farmhouses are sited in close proximity to farm buildings, that is a different situation to that of residents who would be unrelated to the business. Such residents are likely to find the farming operations more disruptive than those operating the business.
14. It cannot be guaranteed that future residents would be aware of the level of activity within the agricultural buildings or tolerant to it. That is particularly so because the deer are not housed in the buildings all year round. Consequently, anyone purchasing the dwelling during the summer months could be unaware of the implications of the livestock being housed in the barns during the winter months.
15. I saw the farm buildings at Hollies Farm, Wilton from the A170. I am not aware of the full circumstances surrounding that case and was unable to see the entire site from the road. However, these buildings are situated within a predominantly residential frontage to the A170. They therefore have a different context to the appeal site which is surrounded by the agricultural use.
16. Although plans were submitted showing the associated building operations for the proposed dwelling, in the light of my conclusion on the change of use under Class Q(a), I have no need to address this matter.

## **Conclusion**

17. For the above reasons, I conclude that the appeal should be dismissed.

*Susan Heywood*      INSPECTOR

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<sup>4</sup> Ref ID: 13-109-20150305