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# Appeal Decision

Site visit made on 5 June 2018

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

**an Inspector appointed by the Secretary of State**

**Decision date: 4 July 2018**

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**Appeal Ref: APP/Y2736/W/18/3196384**

**Former Grain Drier, Old Manor Farm, Helperthorpe, Malton, North Yorkshire YO17 8TQ**

- 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 (as amended).
  - The appeal is made by Ms Lynne Porter against the decision of Ryedale District Council.
  - The application Ref 17/01197/GPAGB, dated 2 October 2017, was refused by notice dated 28 November 2017.
  - The development proposed is described as the change of use under Class Q(a) of an existing redundant steel-framed agricultural building (formerly a grain drier and now used for crop, equipment and materials storage) into a single C3 residential dwelling with five bedrooms.
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## Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q(a) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO) (as amended) for the change of use under Class Q(a) of an existing redundant steel-framed agricultural building (formerly a grain drier and now used for crop, equipment and materials storage) into a single C3 residential dwelling with five bedrooms at Former Grain Drier, Old Manor Farm, Helperthorpe, Malton, North Yorkshire YO17 8TQ in accordance with the terms of the application Ref 17/01197/GPAGB, dated 2 October 2017. The approval is subject to the condition that development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2(3) of the GPDO

## Application for costs

2. An application for costs was made by Ryedale District Council against Ms Lynne Porter. An alleged application for costs was made by Ms Lynne Porter against Ryedale District Council. These matters are the subject of separate Decisions.

## Procedural Matters

3. Since the date of submission of the appeal the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 came into force on 6 April 2018 (Amendment Order). This, amongst other things, amended paragraph Q.1.(b) of the GPDO. The amendment now states that development is not permitted by Class Q if the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or

dwellinghouses under Class Q exceeds 465 square metres (sqm). I have therefore determined this appeal on the basis of the revision to the floor space as prescribed in the Amendment Order.

4. Schedule 2, Part 3, Class Q of the GPDO states that 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<sup>1</sup>; and (b) building operations reasonably necessary to convert the building, is permitted development.
5. The Council's second reason for refusal and accompanying evidence focusses on those matters addressed under Class Q(b) in terms of the scale and nature of the works that would be required to convert the building to residential use. However, Class Q.2(2) of the GPDO indicates that an application can be made for the change of use of the building and curtilage only. In this case it is clear from the application form and supporting evidence that the application was made on the basis of development proposed under Class Q(a) only. The appellant has also made it clear that it was always the intention to address matters under Class Q(b) with a separate application. I have therefore determined this appeal on the basis that it relates to development proposed under Class Q(a) only and seeks approval for the change of use without dealing with building operations.
6. The Council's second reason for the refusal of prior approval as set out on the Decision Notice indicates that there is considered to be insufficient information submitted with the application to demonstrate how this steel portal framed building can be altered to become a residential dwelling within the parameters of that permitted by Class Q without constituting a 'new build'. However, this matter is relevant to the considerations required under Class Q(b) of the GPDO. The application relates to development proposed under Class Q(a) only and clearly does not relate to building operations reasonably necessary to convert the building. Consequently, consideration of whether the proposed development is permitted development under Schedule 2, Part 3, Class Q(b) of the GPDO is not a matter before me and therefore is not considered in my determination of this appeal.
7. In Part E of the appeal form it is stated that the description of development has changed. Neither of the main parties has provided written confirmation that a revised description of development was agreed. Moreover, on the basis of the evidence before me, the description given on the application form is a more accurate description of what was applied for in terms of an application seeking prior approval under Class Q(a) of the GPDO only. However, the description provided on the application form was lengthy. I have therefore used only the first sentence of this description which succinctly and adequately describes the proposed change of use.

### **Main Issue**

8. The main issue is whether or not the proposed development is permitted development under Schedule 2, Part 3, Class Q(a) of the GPDO and, if so, whether or not it would require prior approval in respect of the accompanying conditions in paragraph Q.2.

## Reasons

9. The appeal building comprises a steel portal framed building with cladding on all sides with an open sided 'lean to' attached to the south western side. An extension was previously constructed to the south eastern side which now has its roof missing and is open on one side with one other side wall partly missing. The building lies to the south east of Old Manor Farm which comprises of a dwelling with a foldyard comprising of traditional brick constructed farm buildings. The appeal building and the buildings comprising the foldyard were in storage use at the time of my site visit.
10. Paragraph Q.1(a) – (m) of the GPDO sets out the relevant exceptions and limitations of the permitted development rights. The Council indicates that the proposal would not meet the requirements of Q.1.(b) of the GPDO as the floor area would be greater than 450sq m (now amended to 465sqm by virtue of the Amendment Order) and that the building is not considered to be suitable to have its use changed to residential (Use Class C3) because of the close proximity of existing buildings that can house livestock together with associated agricultural movements and activity in the area.
11. The appellant has provided measurements of the Gross External Area (GEA) of all of the components of the existing building. These indicate that the steel portal framed building and the open sided 'lean to' attached to the south western elevation have a combined GEA of 449.19sqm. The former extension to the south eastern side has a GEA of 21.62. The Council suggest that from scaling of the plans provided the GEA (including the former south eastern side extension) would be approximately 490sqm.
12. I accept the appellant's views of the variations that can occur in the scaling of measurements from a plan as oppose to actual measurements taken on site. In the absence of any other actual measurements taken by the Council, I have used the actual measurements provided by the appellant for the purpose of calculating the GEA. These indicate that the combined GEA of all of the structures would be 470.81sqm.
13. However, the appellant has indicated that the former south eastern extension does not form part of description of the buildings for which a change of use is proposed but would form part of the curtilage around the converted building. In my view this former building with its roof and some of its walls missing cannot now be described as an agricultural building and forms, at best, an external storage enclosure.
14. I recognise that there is a lack of clarity as to whether floor space should be measure on the basis of Gross Internal Area (GIA) or GEA. I also note that the plans submitted to the Council that were used for the calculation of floor space provided external measurements. The appellant indicates that actual measurements for the purposes of calculating GIA indicate that the combined GIA of the main building and the open sided 'lean to' attached to the south western elevation have a combined GIA of 445.11sqm. Even if I were to be persuaded that the former south eastern building should be included, the total GIA would be 464.47sqm and hence within the 465sqm prescribed by the Amendment Order.
15. Irrespective of whether GIA or GEA should be used to calculate the cumulative floor space of buildings, I do not consider that the remains of the south eastern

extension can be considered to constitute a building for the purposes of the GPDO. It is clearly the appellant's view that this does not form part of the application for prior approval for the change of use. Furthermore, given that it now forms little more than enclosure that is visually distinct from the main building and the 'lean to' and my view that this cannot now reasonably be considered to form a building, I consider its floor space should not contribute to the calculation of the cumulative floor space of the existing building or buildings changing use.

16. I note the Council's view that a Notice of Demolition should have been submitted for the south eastern extension prior to the submission of the application. However, I agree with the appellant that this former building has now, to all intents and purposes, been demolished. I have also taken into account the evidence provided by the appellant of other decisions taken by the Council in respect of former buildings that, as a consequence of their state of repair, are not now considered to constitute agricultural buildings. My overall conclusion on this matter, on the basis of the measurements provided by the appellant, is that I do not consider that the floor space of the buildings changing use under Class Q would exceed 465sqm.
17. For development to be permitted by Class Q(a) of the GPDO, it is also subject to a series of conditions regarding whether the development requires the prior approval of the Council. Paragraph Q.2(2) explains that where the development proposed is under Class Q(a) only, it must apply to the local planning authority for a determination whether prior approval of the authority will be required as to the items referred to in sub-paragraphs (1)(a) to (e) and the provisions of paragraph W.
18. The Council indicate that the proposal would fail to satisfy sub-paragraph (1)(e) which relates to whether the siting or location of the building makes it impractical or undesirable for residential use. In particular, the Council are concerned that the existing foldyard to the north could be used for livestock and that there is a likelihood of agricultural related activity and movements occurring in close proximity of the proposed dwelling that could harm the living conditions of the prospective occupants. I note that works have commenced on the conversion of part of one of these foldyard buildings to a residential annex.
19. The appellant indicates that the overall agricultural holding comprises an area of approximately 4.5 acres. The foldyard effectively forms a rectangular enclosure for agricultural activity to primarily occur within the enclosed area. The appeal building lies outside of this enclosure and the internal area of the foldyard is not readily visible in views from the main steel portal framed appeal building. At my site visit I observed that there appeared to be very little agricultural activity on site.
20. There is some dispute between the main parties as to whether the foldyard buildings are capable of housing livestock. Even if I were to be persuaded that they are capable of housing livestock, I have taken into account their orientation, the distance from the appeal buildings, the relatively small area of the holding, the likely low level of any future agricultural activity and the fact that part of one of these is being converted to a residential annex. These are all factors which, in combination, lead me to conclude that the effect of agricultural activity associated with the small holding on the living conditions of

the prospective occupants of the proposed dwelling would likely be relatively insignificant.

21. Taking the above factors into account, I do not consider that the location of the building makes it impractical or undesirable for residential use. Consequently, the proposal would satisfy the requirements sub-paragraph (1)(e).

*Other matters*

22. My attention has been drawn to a number of appeal decisions and approvals granted by the Council under Schedule 2, Part 3, Class Q of the GPDO in the District. However, I do not have full details of the nature of the proposals or the planning considerations and circumstances relating to these. Consequently, I cannot be sure that these are representative of the circumstance in this appeal and, in any case, I have determined this appeal on its own merits.

**Conditions**

23. Section W (13) of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. I have attached the standard condition set out in paragraph Q.2(3) on timescales, which requires development to be completed within 3 years of the decision date.

**Conclusion**

24. Taking the above factors into account the proposal satisfies the requirements of Schedule 2, Part 3, Class Q(a) of the GPDO and therefore is development permitted by it. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

*Stephen Normington*

INSPECTOR