



Appeal Decision

Site visit made on 25 February 2025

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2025

Appeal Ref: APP/U2750/W/24/3354418

Priory Park Farm, Fryston Common Lane, Monk Fryston, Selby LS25 5ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and 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 Mr N Stoker against the decision of North Yorkshire Council.
 - The application Ref is ZG2024/0724/ATD.
 - The development proposed is conversion of an existing barn into two semi detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading I have set out a truncated form of the description of development in the application form, omitting that which is unnecessary to accurately describe the scheme.
3. Amendments to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) came into force on 21 May 2024 (GPDO 2024) under Statutory Instrument (SI) 2024/579. Article 10 of SI 2024/579 sets out transitional arrangements allowing applicants to make an application for a determination as to prior approval under the previous provisions of Class Q of the GPDO (GPDO 2020) until the end of 20 May 2025, in respect of development that would have been permitted under Class Q before 21 May 2024 but that would no longer be permitted under Class Q on and after this date. The appellant sought prior approval under the transitional provisions. I have thus considered the appeal on this basis.

Background and Main Issue

4. Under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO 2020, planning permission is granted for (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 use class C3 (dwellinghouses) together with (b) building operations reasonably necessary to convert the building, subject to limitations and conditions.
5. Paragraph Q.1(a) indicates that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013 or, in the case of a building which was in use before that date but was not in use on that date, when it was last in use or, in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins.

6. Paragraph Q.1(i) indicates that development is not permitted by Class Q(b) if it would consist of 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 partial demolition to the extent reasonably necessary to carry out such works.
7. The Council contend that the proposal would not benefit from the provisions of Class Q of the GPDO 2020, as the site is no longer part of an established agricultural unit, and so would not comply with the limitations of Class Q(a) and Q.1(a). The Council also consider that the building operations proposed would go beyond what could reasonably be considered a conversion, and so would not comply with the limitations of Class Q.(b) and Q.1(i).
8. Therefore, the main issue in this case is:
 - Whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO 2020, with particular regard to the provisions and limitations of paragraphs Q(a) and Q.1(a), Q(b) and Q.1(i).

Reasons

Schedule 2 Part 3 Class Q(a) and Q.1(a)

9. The appeal building comprises an open sided steel portal frame barn. The evidence indicates that planning permission¹ was granted in 1998 for erection of a grain store/hay barn at the appeal site, and the appeal building was constructed in 1999. The Council acknowledge that, while the building is now also used for storing horse feed, this would not arise to a material change of use from its original agricultural use. Nevertheless, Class Q also requires that the building was part of an established agricultural unit on 20th March 2013.
10. In respect of Class Q development, paragraph X of Part 3 of the GPDO 2020 states that an “established agricultural unit” means agricultural land occupied as a unit for the purposes of agriculture on or before 20 March 2013 or for 10 years before the date the development begins. Where there is more than one activity taking place within the unit, including non-agricultural uses, consideration is required as to whether the activities could be regarded as ordinarily and reasonably incidental to agriculture, based on fact and degree, and whether the main use of the holding is primarily agricultural, in order that permitted development rights under Class Q would apply.
11. The appellant indicates that, since 2006, Priory Park Farm has been split into two uses, comprising agricultural use and a DIY livery. The agricultural use has been reduced from 120 acres of arable land in 1992 to approximately 66 acres with hay and haylage as the main crops by 2010. Planning permission was subsequently granted in 2020 for an indoor riding arena and stables, and a third business comprising a horse breeding and training business has operated from Priory Park Farm since 2019. A plan has been provided showing that of the 9 buildings at Priory Park Farm from which business activity is carried out, 7 are in use for the DIY livery or stud, with only 2 in use for agricultural purposes.

¹ Council Ref CO/1998/0155

12. The appellant maintains that the equestrian buildings do not form part of the application site, nor are they any longer a part of the agricultural unit. While the red line boundary of the site relates solely to the building in question and its curtilage, a blue line has been drawn around the entirety of the farm shown on the site location plan, including the equestrian buildings. I saw on my site visit that there is no physical boundary between the agricultural and equestrian uses on site, and they share the same access. While the appellant has provided a holding number and subsidy payment reference for Priory Park Farm, no substantiated evidence in respect of this, or the area or activities to which they relate, is before me.
13. Ultimately, the extent of agricultural and non-agricultural uses at the site on or before 20 March 2013 is not clear from the evidence. Nevertheless, it is evident that a significant proportion of the activity at the farm is now derived from the equestrian businesses. Given the lack of clarity on this matter, it has not been demonstrated that the non-agricultural uses are or have been incidental in nature to the agricultural use of the unit.
14. For the purposes of Class Q(a) and Q.1(a), I am not persuaded, on the balance of probabilities, that the site was used solely for an agricultural use as part of an established agricultural unit on or before 20 March 2013. For this reason, the proposal would therefore not be permitted development under Schedule 2, Part 3, Class Q of the GPDO 2020.

Schedule 2 Part 3 Class Q(b) and Q.1(i)

15. In addition to the building operations referred to in Paragraph Q.1(i), The Planning Practice Guidance (PPG)² clarifies that for the building to function as a dwelling it may also be appropriate to undertake internal structural works. These may include works 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.
16. The PPG indicates however that only where the existing building is already suitable for conversion to residential use does it benefit from the Class Q permitted development rights. It is not the intention of the GPDO to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. The judgement in *Hibbitt v SSCLG* [2016] EWHC 2853³ held that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure.
17. The Ground Investigation Report⁴ highlights that the conversion of the barn to residential properties will result in increased loadings being placed on the existing frame, as well as the requirement for new foundations to be formed to support linear wall loads. The existing pad foundations would require deepening to extend the formation depth to meet modern standards and to avoid frost damage.
18. The submitted structural engineer report⁵ indicates that the existing building is in good condition and can be converted without the need to remove or replace the

² Paragraph: 105 Reference ID: 13-105-20180615 Revision date: 15 06 2018

³ *Hibbitt and another v Secretary of State for Communities and Local Government* (1) and *Rushcliffe Borough Council* (2) [2016] EWHC 2853 (Admin).

⁴ Soil and Structures Ref 20343-R-001-V02

⁵ Holdgate Consulting Ref 23-819

existing steel structure. Nevertheless, new cavity external walls together with new blockwork linings to external perimeter walls would provide support to the new first floors. Internal walls would also be formed in loadbearing blockwork or timber to provide support. In addition, the proposed works would include installation of a new steel ridge beam, a concrete ground bearing slab, strip footing between the steel portal frame bays to support concrete blockwork infill panels, and lateral strip foundations to support party walls and at each end of the building. Replacement of all roof and wall cladding is also referred to and shown in the proposed plans, in addition to the insertion of substantial areas of glazing on each elevation.

19. The appellant contends that there is extant consent for block walls to be raised between the vertical steel stanchions, end elevations, and concrete floor that can be constructed at any time, by virtue of the earlier implementation of the 1998 planning permission for the building. However, based on my own observations and the evidence before me, the appeal building differs from the approved plans provided. There is no substantiated evidence, such as a Lawful Development Certificate, to demonstrate that this permission was lawfully implemented or that these works could now be carried out without further consent.
20. In view of the above, the existing building is not already suitable for conversion to residential use, and it has not been demonstrated that conversion in the form proposed can be achieved without extensive work that would amount to substantial re-building of the barn.
21. For the purposes of Class Q(b) and Q.1(i), I therefore conclude that the extent of the building operations proposed would not be reasonably necessary to convert the building to a dwellinghouse. For this reason, the proposal would not be permitted development under Schedule 2, Part 3, Class Q of the GPDO 2020.

Other Matters

22. In view of the above, the proposal would not benefit from the transitional arrangements in Article 10 of SI 2024/579, as it would not have been permitted under Class Q before 21 May 2024. Were the proposal to instead be considered under the GPDO 2024, it would also not benefit from the amended provisions of Class Q, as the proposed works would likewise go beyond building operations permitted by Schedule 2 Part 3 Class Q.(c) and Q1.(j), and the proposed dwellings would exceed the maximum floorspace threshold of 150m² set out in Class Q1.(c).

Conclusion

23. For the reasons given above I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR