

**Parish: Thirkleby High and
Low with Osgodby**

Ward: Raskelf and White Horse
6

Committee Date: 9 June 2022

Officer dealing: Mr Connor Harrison

Target Date: 19 October 2021

Date of extension of time (if agreed): 13th June 2022

21/02103/MBN

**Prior Notification (Class Q) for the Conversion of an Agricultural Building to form 1
no. Dwellinghouse.**

At: OS Field 8400, Vicar Hill Lane, Little Thirkleby.

For Mr and Mrs Ellis

1.0 Site, Context and Proposal

- 1.1 The site is located within the Open Countryside.
- 1.2 The building that is subject to this application is a large portal framed building located to the south of Little Thirkleby. It is accessed from Vicar Hill Lane and the current access is located to the east of the site. The site is prominently located on a hill overlooking Back Lane to the south.
- 1.3 This prior notification concerns the conversion of the building to a single dwelling under permitted development rights set out in Class 3, Part Q of the General Permitted Development Order. Initially the proposal was to create two dwellings but this was altered to a single dwelling.
- 1.4 The proposed new dwelling will have a floorspace of 415m² (approximately 91m² of which will consist of covered parking) and will be 4.4m to the eaves with a ridge height of 6m (North Elevation). The associated amenity space (residential curtilage) will be approximately 190m² in size.
- 1.5 The building is currently constructed of a steel frame partially clad with grey sheeting and Yorkshire boarding with the roof being comprised of fibre cement sheeting. The proposed elevations are to be composed of a mix of sheeting and timber boarding, with fourteen openings being created to form windows and doors and the insertion of one rooflight.
- 1.6 This application follows a refusal of permission for an agricultural worker's dwelling on the site due to the "lack of a functional requirement for the existing or proposed livestock enterprise".
- 1.7 It has not been established how the site is used as part of a wider agricultural unit and it is unclear as to what the proposed use of the remaining land would be if the application were to be approved and development implemented.

2.0 Relevant Planning History

- 2.1 19/00057/FUL - Proposed construction of an agricultural dwelling – REFUSED.
- 2.2 07/00086/COU – Caravan on Land – REFUSED (Enforcement).

- 2.3 06/00176/COU – Caravan on Land – REFUSED (Enforcement).
- 2.4 04/00192/COU – Static Caravan – REFUSED (Enforcement).
- 2.5 95/50880/AN - Prior notification to construct a general purpose building – APPROVED.

3.0 Relevant Planning Policies

- 3.1 The application has been applied for under the terms of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 3.2 This application is therefore applied for under prior notification and the policies of the Local Plan do not apply to this scheme, Order refers to the requirements of the National Planning Policy Framework.

4.0 Consultations

- 4.1 Parish Council – No response.
- 4.2 Neighbours and Site Notice – No responses.
- 4.3 Environmental Health – No objections.
- 4.4 Contaminated Land – No objections.
- 4.5 Yorkshire Water – No response.
- 4.6 RAF Linton-on-Ouse – No response.

5.0 Analysis

- 5.1 Part 3, Class Q of the General Permitted Development Order (GPDO) allows for the following:

Q. 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; and or
- (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

In order for a building to benefit from the above permitted development rights it must first qualify as an "agricultural building" - the Legislation defines this as "a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business; and "agricultural use" refers to such uses." The site must also have been used solely for agricultural purposes.

- 5.2 There is a history of agricultural related development on the site and surrounding land, however the extent and dating of the site in relation to an agricultural use required further information on how the building was used and so supporting evidence was requested from the agent to support the position of the applicant. It is noted that in the cases ranging from the years 2006-2019 it is mentioned that agriculture is not a main income for the applicant who also works as a landscaper and designer of equestrian courses.
- 5.3 In response to this request photographs were also provided demonstrating an agricultural use as late as November 2020 as well as information providing figures relating to the applicant's livestock holdings from 2013 onwards. This is further supported by figures supplied as part of the submitted information for 19/00057/FUL which indicate that the building has been in agricultural use within the past decade. Details were provided in February 2022 that stated the following:
- "Ewes come to Little Thirkleby in March for lambing and stay in the shed until lambed/weaned, then turned out onto the land opposite until early May when they are moved elsewhere on the holding over the summer (Coxwold) and then sold in November."
 - "Store lambs are purchased in September and (subject to weather) are grazed and then brought to Little Thirkleby for finishing and sale (between December to February)."
 - "Cattle come to site in November and are housed up to the end of July once calving completed, then returning to Sowerby until autumn."
- In addition to this, various receipts relating to livestock were provided.
- 5.4 The structure in question is sited on 4 acres of land within a wider agricultural holding of 79 acres. Where the remainder of the holding belonging (or tenanted) to the applicant is located has not been provided and so it is not possible to independently verify that the proposal can meet the requirements of Class Q.
- 5.5 Whilst the historic use of the site is not disputed the council has, through a site visit, found items which would indicate that the site and the building has been used for storage relating to the applicant's other (non-agricultural) businesses. This statement is supported by photographs which match those taken by the officer during the site visit, and which give some indication of varying uses within the site – domestic items, logging materials and equipment, and material relating to the other businesses were present within the site and the building.
- 5.6 The agent provided some further information on this basis, stating that it is not unusual for farmers to collect items and store them within an agricultural site. It is agreed that this is not an unusual feature within a farmyard, but this habit is usually within the setting of an active farmyard and so an element of doubt over the use of the site is not normally established. Further to this, the agent indicated that the agricultural use of the site has diminished since the 2019 application, adding to the element of doubt expressed by the Council.
- 5.7 With all prior notifications the burden of proof is with the applicant and an opportunity was given to the agent and applicant to provide evidence to prove the

ongoing use of the building as part of a business or trade. Whilst the agent has responded to the Council's queries, the evidence that has been given to the Council does not prove on the balance of probability that the sole use of the site has been agricultural, though it is accepted that there is a historic agricultural use within the site. It has not been possible to check the status of the agricultural business through the supplied company name and so the use of the building as part of an agricultural business could not be verified.

- 5.8 Outside of the question of use, it is considered that the prominence of the site within the immediate landscape and the design of the building would result in an "undesirable" development. Whilst the Council did not identify a harmful landscape impact as part of 19/00057/FUL, this was predicated on the agricultural character of the site being retained through the retention of the agricultural buildings. It is considered that having a large, prominent dwelling which features a large amount of glazing to the south and west elevations – in addition to any further domestication through garden furniture, formal planting, etc. - would result in an incongruous addition within the rural scene, particularly when not paired with attendant agricultural structures.
- 5.9 Whilst the PPG does not list landscape impact within its assessment of "undesirable" development, a recent appeal decision (APP/W4705/W/20/3254772) identified that harm to the surrounding countryside ran contrary to the requirements of Paragraph 174 of the NPPF. A landscaping plan to mitigate this impact has not been submitted, though the agent has indicated a willingness to accommodate this within their supporting statement.

Planning Balance

- 5.10 The wording of the relevant sections (Class Q[a] and Q.1) of the GPDO is clear in that a "site" (the building and land within the proposed curtilage) cannot be converted through a Class Q application where it has not been solely in agricultural use. It is considered that the presence on site of items that relate to other activities undertaken by the applicant (horse jumps, logging and landscaping machinery) in addition to the apparent disuse of the building (where equipment had trees growing through them due to inactivity) cast a reasonable amount of doubt on the ability of the site to comply with the legislation.
- 5.11 This doubt has not been sufficiently addressed through the material provided by the applicant and their agent. It is therefore considered that the application should be refused under Schedule 2, Class 3, Paragraph W3(b) as the Local Authority has determined that the developer has provided insufficient information to enable the authority to establish whether the proposed development fully complies with the legislation.

6.0 Recommendation

6.1 That subject to any outstanding consultations the application be **REFUSED** for the following reason.

1. The building and land the subject of this application do not meet the requirements of Schedule 2, Class 3, Paragraph W3(b) (Class Q[a] and Q.1) of the Town and Country Planning (General Permitted Development) Order 2015 as amended as on the balance of probability the site has not been used solely for agriculture.
2. The conversion of the building would result in undesirable impact upon the character and appearance of the countryside contrary to the requirements of Paragraph 174 of the NPPF.