

2	21/03058/FUL Bedale	Agent	<p>Following the Committee Site Visit and questions around pedestrian access, the following response has been received from the applicant's agent.</p> <p>P21-5501-07 Offsite Highway Works</p> <p>In line with Condition 18 on the draft report, the development will provide pedestrian connections to the front of the site, connecting into the existing footpath. This is shown on the attached layout to avoid any doubt. Please note that the specific details will be agreed with the Local Authority as part of the discharge of condition application. The attached however demonstrates the extent of additional footpath to be created from the site entrance.</p> <p>40 Mile / Hour Speed Limit Change</p> <p>South End is currently subject to the national speed limit (60mph) along the site frontage. As part of the proposals in line with previous consultation response from the NYCC Highways Officer (latest planning application 20/02314/FUL), it is proposed to provide a 40mph speed limit along the site frontage providing an intermediate reduction from 60mph to the 30mph speed limit located to the northwest of the proposed main site access location. The limits of the 40mph speed limit (along with any suitable gateway treatment) are to be agreed with the LPA.</p> <p>Pedestrian Access Links to Tornado Close and Mosquito Garth</p> <p>This is a matter which has been investigated as the applicant also understands the importance of pedestrian connectivity. Unfortunately, Yorvik would be unable to deliver the pedestrian connections which are being sought.</p> <p>As the photographs attached demonstrates, the extent of the adoptable highway does not extend to the boundaries of the site. Instead, these turn into private shared drives before terminating in areas of grass. As you will be aware, given this is not adopted highway, we cannot introduce a public footpath over the land – even if we took a link to the boundary, we would not be able to achieve a link beyond that.</p>
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			There is also a drainage easement passing alongside the existing houses with obligations not to interfere with that apparatus as it is Yorkshire Water Authority.
3	21/02867/FUL Northallerton	Northallerton Town Council	No objections.
4	21/02530/REM Hutton Rudby	Ward Member Officer Representation	<p>Support the position of the Parish Council and remain concerned about both the proximity to the SABIC pipeline and matters of Nutrient Neutrality.</p> <p>Please note that the report states the overall height as being 7.3m. The revised drawing actually shows the building at 6.9m.</p> <p>Two additional letters of representation were submitted by one member of the public. The letters raise the following points:</p> <ul style="list-style-type: none"> • Outline was granted for 1.5 storey dwelling, this is not 1.5 stories • The plot is an irregular shape • The applicant wishes to build as large a house as possible • All variations have been vigorously opposed by the local community and Parish Council • The dwelling is large and positioned in a way which fails to disguise it • It has a large mass however its presented • 2m higher than the 1.5 storey dwelling opposite • The Council is breaking its own guidelines on building height • Sets an unwelcome precedent • Planning permission was refused by the Planning Inspectorate for two smaller dwellings • The dwelling could result in 6 additional vehicles with overflow parking on the verges • The pegging out of the site for the Planning Committee visit was done very quickly (questioning accuracy) and removed quickly after the visit • Disagrees with the approach taken for pegging out and that the Planning Committee took this at face value without questioning the accuracy

			<ul style="list-style-type: none"> • No questions were asked during the site visit in relation to the size, height and overall mass of the proposed dwelling • The number of people within the inner zone of the pipeline is no different between two smaller dwellings (refused permission) and one larger dwelling. • The Planning Committee had not been briefed properly prior to the site visit • The Officer's report does not give a valid reason as to why the proposed dwelling complies with the outline permission for a 1.5 storey dwelling
5		None	
6	21/02103/MBN Thirkleby High and Low with Osgodby	Further Clarification of Legislation by Officer:	<p>Schedule 2, Part 3, Class Q of the General Permitted Development Order:</p> <p>Allows for the conversion of agricultural buildings to form either one larger dwellinghouse (up to 465sqm) or five smaller dwellings (up to 100sqm each). Paragraph Q.1 does not allow this development to take place if a site was not used solely for agricultural use on 20th March 2013. If a site was not in agricultural use on this date but was previously solely used for agriculture and had not been used for anything else in between then this is also allowed.</p> <p>The proposal falls within the floorspace conditions as it is for one larger dwellinghouse with an area less than 465sqm.</p> <p>Paragraph (i) allows for the installation or replacement of windows, doors, roofs, and exterior walls in addition to services (water, gas, etc.) to the extent "reasonably necessary for the building to function as a dwellinghouse" and also allows partial demolition of the structure in order to carry out the above.</p> <p>Case law would suggest that retention of the original fabric is expected to a degree (e.g. two existing walls and the roof) – the wholesale replacement of a structure does not generally constitute "conversion". However, the application does include retention of almost the entirety of the steel supporting structure.</p> <p>The site is not within a designated area and is not a listed building.</p>

		Response from Agent to Comm. Report (David Boulton – ELG):	<p>The Local Authority is required to assess seven key aspects of the application in Paragraph Q.2(1):</p> <ul style="list-style-type: none"> a) Transport/Highways Impacts. b) Noise Impacts. c) Contamination Risks. d) Flooding Risks. e) Whether the location of siting of the building makes it otherwise impractical or undesirable for the building to change into a dwellinghouse (broadly speaking, this refers to the sustainability of the location – asking if it is too far from services). f) The design or external appearance of the building. g) The provision of adequate natural light in the habitable rooms of the proposed dwelling. <p>It is considered in the officer report that the proposal meets all the above, save for (f) due to the potential landscape impact.</p> <p>Schedule 2, Part 3, Paragraph W(3)(a) allows the Local Planning Authority to refuse an application where they feel that the proposal does not comply with the legislation and (b) allows a refusal where the developer has provided insufficient information to establish compliance with the legislation. The local authority has recommended refusal based on the terms of the above paragraph (b).</p> <p>Please see the attached document for full details.</p> <p>Agent would like item to be deferred to allow this further information to be taken into account.</p>
7		None	
8	22/00998/REM West Tanfield	Tanfield Parish Council Representation:	There is concern that there will not be enough parking within the development for residents and visitors. It was felt that the curved development looked more aesthetically pleasing rather than the linear. The speed limit through the village should be reduced to 30mph or

		Representation	<p>below. Despite Yorkshire Water’s reassurances we are concerned that this development and the others either side of the B6267 will cumulatively put too much pressure on an infrastructure that Yorkshire Water have said needs improvement. This development would be likely to attract families with children. The Parish Council proposes, the developer installs a cast iron fence around the properties and the road to prevent the children from the houses running across the B6267 to the play area on the south side of the village.</p> <p>Additional letter of objection received which is summarised below:</p> <ul style="list-style-type: none"> • Will give a negative appearance of five new dwellings being crammed into a tight corner where there is no shortage of room in front of existing dwellings, on both sides of the road • Propose a more spread out plan in an L shape or similar, perhaps, with three properties adjacent to the road and a further two at 90 degrees to the road, in the wider part of the field. • Failure to amend the current layout, will result in the houses (in the narrowest part of the field adjacent to the road, appearing unnaturally congested, as opposed to placed or located, which differs from the natural form and shape of the village as it stands, especially when you consider new and recent developments within the village. There is plenty of room in the field to place the proposed properties with both grace and sympathy to the existing inhabitants and land scape.
		Representation	<p>Additional letter of representation received which support the scheme are summarised below:</p> <p>Hoped it would remain an open space but appreciate and accept change.</p> <p>Not adverse to development in Nosterfield and feel small scale developments in villages help to maintain the vitality of the area in the right format.</p> <p>Did object to the last application and remain very grateful to the Committee for rejecting that scheme.</p> <p>The new layout is a significant improvement, it provides for a road frontage development that reflects the opposite side of the road, along with the other small sites</p>

		Representation	<p>already recently passed without contravening planning policies of neighbouring properties. I truly hope this scheme will be supported in its current form by the councillors on committee.</p> <p>Additional letter of representation received summarised below</p> <ul style="list-style-type: none">• We are in favour of the current linear plan with the houses facing Thornfield Road• Concerned that the trees to be planted adjacent to Flask Lane do not obscure light and view to the residents.• We would also be interested to know who would maintain the hedge on Flask Lane.
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SUPPLEMENTARY COMMENTS

PRIOR NOTIFICATION (CLASS Q) FOR THE CONVERSION OF AN AGRICULTURAL BUILDING TO FORM 1 DWELLINGHOUSE

VICAR HILL LANE, LITTLE THIRKLEBY
LPA REF 21/00641/FUL

I acknowledge receipt of the officer report relating to the above application and request for comments in response to enable clarity on this matter.

For ease of understanding, I reference the officer report and assertions under each relevant section in the report:

Para:

1.2 – *'the site is located prominently located on a hill overlooking Back Lane'* - the site sits at a higher level than Back Lane albeit 90m from the highway (nearest point) and with intervening substantive hedgerow planting to the highway edge and backdrop of hedgerows and trees. The site is not in direct view from the highway and occupies a peripheral view within a much wider landscape when travelling north along Low Road/Back Lane and, equally, along Vicar Hill Lane there is sporadic development including dwellings and large buildings of comparable scale and kind – and so the building does not sit in isolation in this regard. The prominence of the building is diluted as a result.

1.3 – *'Initially the proposal was to create two dwellings but this was altered to just a single dwelling'* – the application for prior approval has always been for a single dwelling since submitted in August 2021. I have no idea where this reference comes from.

1.4 – *'the associated amenity space (residential curtilage) will be approximately 190m² in size'* – the proposed curtilage (site area excluding the building footprint) extends to 412sqm with the building

Gateway House, 55 Coniscliffe Road, Darlington, Co. Durham, DL3 7EH

footprint amounting to 415sqm. The proposed dwelling would be less than 465sqm being the threshold in this regard for larger dwellings.

1.6 – *‘the application follows a refusal of permission for an agricultural workers dwelling’* – permission was refused on the basis of lack of essential need not any assertion that there was no agricultural enterprise on the site and wider holding, just the level of activity was not deemed to require full time on site presence. This reference seems to assert that this prior approval is a corollary of the refusal or derives a negative context for the consideration of it. Conversely, approval was granted under 95/50880/AN with an acceptance of the building now on site in the first place.

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’....*

The land is grazed by the livestock (sheep and cattle) with grass crop taken as appropriate – I am not sure what other information on the ‘use’ of such land can be provided or what level of detail would clarify the concern.

I am unsure as to the relevance of *‘how the site is used as part of the wider agricultural unit’* other than the provision of this information confirms that the business uses other land for agricultural purposes with the subject building being part of that wider activity. The interest is not limited to the land within which the building sits. See comments at 5.4 and previous emailed information which seems not to be referenced.

As for the *‘proposed use of the remaining land’*, I fail to see that this is relevant or part of the determination/consideration ? it will remain as agricultural land as grazing/for grass crop as expected.

5.2 – *‘there is a history of agricultural related development on the site and surrounding land....from the years 2006-2019 it is mentioned that agriculture is not the main income for the applicant who also works as landscaper and designer of equestrian courses’* – the site and land has been used for agricultural purposes with the applicant gaining income from a landscaping business albeit that is based at and operated from their home address in Sowerby not this site. There is no requirement for income from agriculture to be substantive or the main stay/sole source for the applicants but the physical use of the site is the key consideration with a legitimate business being operated and not a hobby. In this regard the agricultural activity provided an income of £25,202 in 2021. There is no equine based business or income gained.

We have provided cattle passports for the business, trade sales and purchases information/receipts along with confirmation that the applicant is a customer of Thirsk Auction Mart (buying and selling livestock for trade purposes) as well as correspondence from the Rural Payments Agency.

The business is not listed at Companies House as this is not obligatory as this is not a private limited company. Sole traders without shareholders or Directors do not need to register and simply complete an annual self assessment tax return as being self employed with no obligation to register audited accounts either.

5.3 – *‘photographs were provided demonstrating agricultural use...figures relating to the applicant’s livestock holdings from 2013 onwards....supported by information for 19/00057/FUL which indicate that the building has been in agricultural use within the past decade’* – it is assumed that this information is accepted that an agricultural use has therefore been active and present at the time of the application (when last in use) and indeed prior to that, along with the building being in situ and used prior to 2013.

5.4 – *‘where the remainder of the land holding belonging (or tenanted) to the applicant is located has not been provided....is not possible to independently verify that the proposal can meet the requirements of Class Q..’* – further information has been provided showing the location of the land holding (email to TW dated 14 March 2022) as referred to in the supplementary information provided by email (to CH dated 6 October 2021). The land is grazed by the livestock (sheep and cattle) with grass crop taken as appropriate. The land has been identified and the movement of stock to/from/between such land and the subject building has been explained. The assertion is therefore incorrect.

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 applicants other (non agricultural) businesses....varying uses within the site – domestic items, logging materials and equipment, and material relating to the other businesses’...*

5.6 – *‘is not unusual for farmers to collect items...it is agreed this is not an unusual feature within a farmyard, but this habit is usually with the setting of a farmyard, but this habit is usually within the setting of an active farmyard ...the use of the site has diminished since 2019 application, adding to the element of doubt’* – I fail to understand the differentiation being made here between an ‘active farmyard’ and the application site. This is an active farmyard – an agricultural building which serves peripheral land. If various ad hoc items and uses are acceptable in an ‘active farmyard’, why the difference here? The land within the application site (including the building) are in agricultural use as the primary activity and the ‘storage’ use inferred relates to old farm/defunct equipment that has been left stationary in the building, minor items used in conjunction with the agricultural use (for example –

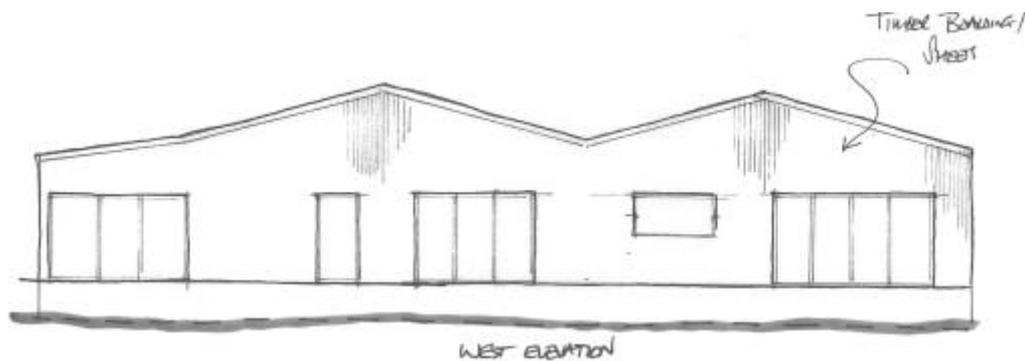
couple of chairs...something to sit on...old freezer...as sealed goods/feed container etc). The presence of a trampoline to keep the applicants child entertained and safe while tending to animals, a touring caravan used for covered shelter when lambing/calving (ancillary to the underlying use ?). Temporary cutting up of a fallen tree to form logs which are not for sale or part of any 'other businesses'. Such does not amount to a material change of use or activity that is nothing more than de minimis. There is not a mixed use or clear material change that would give rise to the ability to instigate enforcement action of instance.

Items/activity beyond the application site and within the wider land parcel equally do not relate to whether the site (red lined area) is used for agricultural purposes either.

I attach commentary on this aspect for further reference which provides legitimacy for a varied approach in terms of 'solely' references and have commented on this consideration and over zealous application in this case in my emails to TW on 14 and 15 March 2022.

5.7 – *'the evidence that has been given to the council does not prove on the balance of probability...not been possible to check the status of the agricultural business through the supplied company name...'* – the previous officer report referenced, and presumably applied, a threshold of 'beyond all doubt' which is excessive (see references to 'on the balance of probability' in such cases and indeed the threshold for a CLEUD) and the information provided encompasses documents that show a trade/business is being operated. I have grave concerns that despite the now changed terminology to 'balance of probability' the more stringent test still forms the basis of the assessment and this simply lip service to the appropriate threshold. The reference to the status of the business refers to a Companies House search – which there is no requirement to register with as explained earlier. This is not unusual and I fail to see what else may be provided in this scenario.

5.8 – *'undesirable development...a large, prominent dwelling which features a large amount of glazing ...in addition to any further domestication through garden furniture...result in an incongruous addition within the rural scene, particularly when not paired with attendant agricultural structures..'* – the resultant dwelling size is determined by the extent of the present building. This has an impact already given its scale, size and position (muted by surrounding context). The perceived harmful impact would be limited, with the western elevation having most glazing – such may be reduced in terms of the extent of the multipaned openings (i.e. 3 and 4 pane openings reduced to 2 paned openings) should officers deem such more appropriate (such not being identified as a specific concern to date by officers) – but equally it must be appreciated that along with such permitted development rights there is an expectation that the appearance of the host building will change to accommodate such alterations to enable use as a dwelling.



The south elevation is partly glazed with the void retained to enable covered parking – this aspect being of benefit in visual terms with vehicles screened from view and the honest appearance of the original structure remaining open to view. The proposal does not encompass the whole building in this regard. Externally, the amenity space is limited to the eastern side of the building and so sandwiched between the bulk of the building and present boundary landscaping – with only one open boundary (to the south). Clearly, any activity would be limited to this area and duly contained and not at all evident to the degree purported by officers.

Landscaping could be included to provide a further planted boundary to the south of this amenity area. Other boundaries to the building are tight to the open filed (west and south) with the building abutting retained open land, so no curtilage to these boundaries to accommodate any paraphernalia or domestic activity. Hedge planting could be accommodated here too if deemed appropriate but such may impose a false containment in this respect.

The reference to not being *'paired with attendant agricultural structures'* is curious as the presence of such and effective agricultural use can often negate the residential use due to amenity concerns – and a building forming part of a wider group is not a pre-requisite and is a false expectation.

The applicant is happy to have the opportunity to discuss any such changes to render the impact of the proposal appropriate – albeit the contention is that the perceived harm is over stated in this respect.

5.9 – *'the PPG does not list landscape impact within its assessment of 'undesirable'...a recent appeal decision...paragraph 174 of the NPPF...'* – the scope/terms of reference for a prior approval application is limited as is accepted above. An appeal decision referencing such is not definitive nor carries substantive weight as the approach to take as such will have depended on the circumstances of that case and an acceptance that change will arise also needs to be made. Previous comments show how this concern is over stated and can be mitigated.

5.10 – *'a 'site' (the building and land within the proposed curtilage) cannot be converted through Class Q application where it has not been solely in agricultural use...the presence on site of...(horse jumps,*



logging, landscaping machinery) in addition to the apparent disuse of the building..' – I refer to the accompanying comments made by way of email correspondence and also third party commentary on this point. The 'solely' reference cannot be as clinical as espoused. Indeed, officers own comments at para. 5.6 promote the contrary approach with an acceptance of a variety of incidental/ancillary/de minimus activities in an 'active farmyard'. The reference is also to the building and land within the proposed curtilage – any horse jumps for instance are not within the proposed curtilage or building. Any items that are, are minor and ancillary and occupying nominal floorspace, with what appears to be an expectation that only areas actively accommodating livestock are legitimately in agricultural use, prohibiting anything of a peripheral nature.

The reference to the 'disuse' of the building is completely incorrect and I am unsure what this is based upon – the building is used in its entirety and none is disused. Minor trees have grown through redundant farm equipment (two tractors) in a small corner of the building due to the earth floor there...to refer to such as 'disuse' is nonsense...if such were unrelated to agriculture (an old car for instance) then such would be accepted, but the reference here is nonsense and wholly unreasonable and imposes an unrealistic expectation.

I fail to see what else could reasonably be provided to show that the agricultural activity is present, part of a wider interest and enterprise with any non-agricultural elements being minor and inconsequential.

If officers refuse this application, I would expect the same level of scrutiny to be made of all such applications and a requirement for a more substantial degree of evidence with submissions under Class Q given the threshold applied in this case.

Equally, the perceived landscape impact is over emphasized and a make weight to the reasons for refusal. It is contended that the progression of this proposal would actually give rise to an enhancement in the local landscape, encouraging/facilitating the removal of peripheral items/activity which (as is the norm) have given rise to incursion into the wider land parcel and the ability of the authority to control such in the future.

I look forward to further consideration and discussion of any changes which may enable a positive determination of this application.

David Boulton MRTPI
Director