PLANNING STATEMENT INCLUDING DESIGN & ACCESS CONSIDERATIONS

- Issued April 2020

SITE ADDRESS:

- Barn C, Bagnall Grange Farm, Tompkin Lane, Stanley, ST9 9NA

APPLICANT:

- Mr P S Allsop

PROPOSAL:

- Change of use and conversion of a farm building to form a single dwellinghouse including the demolition of the eastern end of the building to create a pedestrian access.

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1. INTRODUCTION

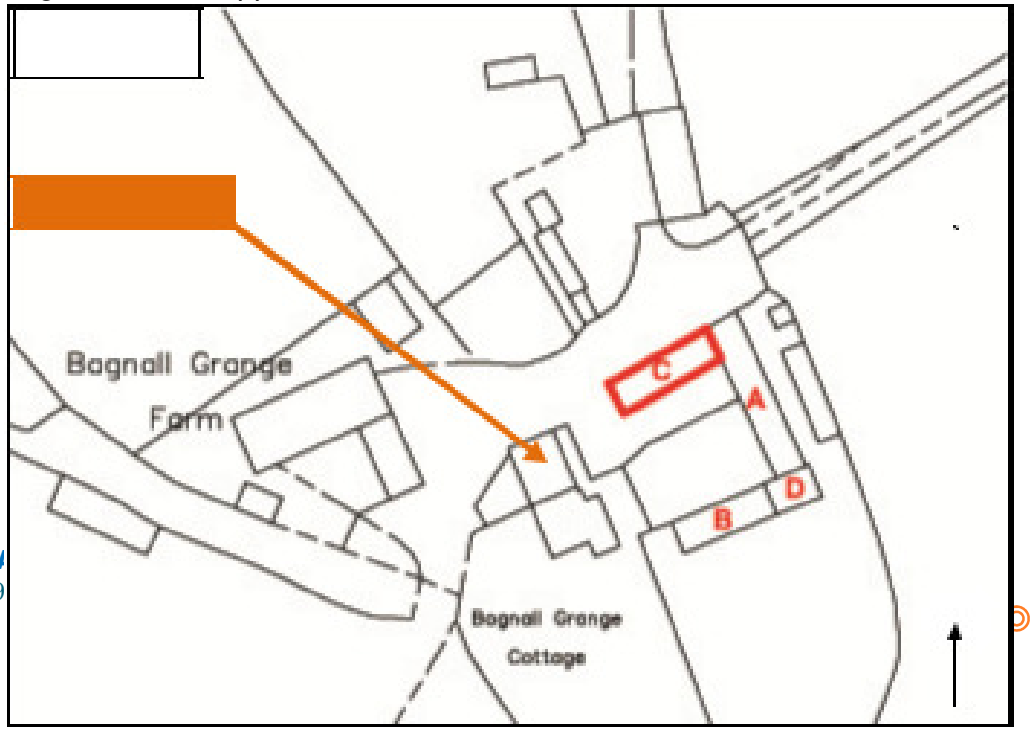
1.1 Ken Wainman Associates Ltd have been appointed by Mr P S Allsop to prepare and submit a prior notification application for the change of use and conversion of a farm building to form a single dwellinghouse including the demolition of the eastern end of the building to create a pedestrian access at Bagnall Grange Farm, Tompkin Lane, Stanley.

1.2 This planning statement assesses the proposed development against the relevant criteria laid out in Schedule 2 Part 3 Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015, The Town & Country Planning (General Permitted Development) (England) Order 2018 and the subsequent amendments made to the Government's on line Planning Practice Guidance (PPG) including in respect of paragraph 105 and concludes that the proposal amounts to permitted development.

2. APPLICATION SITE AND ITS SETTING

2.1 The application site is located at Bagnall Grange Farm, Tompkin Lane, Stanley which is a beef farm set in the countryside overlooking Stanley Pool and which consists of 68 acres (27.5 ha);15-20 acres (6.1-8.1ha) of which is used for haylage. There are four farm buildings (see Fig 1) forming a three-sided courtyard to the east of the farmhouse – buildings A, B, C, and D. For ease of reference they are referred to in this document as Barns A, B, C, and D. The proposal is to convert Barn C (see Fig 1 below) into a dwelling.

Figure 1 - The Application Site



2.2 In September 2015 prior notification approval (DET/2015/ 0026) was granted for the conversion of Barn A to form two dwellings, the partial demolition of Barn C and the demolition of Barn D. Permission to convert Barn B was refused in the same month. Following refusal of permission to convert Barn B the clients made a decision to seek permission to convert Barn C and only demolish a small part of it (DET/2016/0028). A further prior notification application which sought the changes to the approved scheme for Barn A was therefore submitted (DET/2016/0027). Whilst some works commenced on the conversion scheme for Barn A the regulations require development to be completed within 3 years. Unfortunately this has not happened and the aforementioned permissions have now all lapsed.

2.3 This application is therefore a simple resubmission of application DET/2016/0028. Planning permission was granted for that prior notification application in accordance with the following plans 572-1 Location Plan, 1427-01 Survey as Existing and 1427-02 Plans and Elevations.

2.4 These plans have been resubmitted as part of this new planning application and therefore the scheme remains entirely unaltered when compared to that which was previously granted planning permission.

2.4 The approved development was informed by a Bat Survey that was produced by Ken Wainman on 23rd April 2016. An updated Bat Survey has been produced by A B Wildlife Surveys on 15th March 2020 to accompany the new application.

2.3 The application building, Barn C, is single-storey and built of a mixture of brick and stone with a clay tile roof. The building abuts Barn A to the east but there is no connecting door. Photographs 1-4 below show the three visible elevations. The eastern part of the building is built in brick and the western part in stone.

Photographs 1-4: Building C









2.4 The Council when refusing permission to convert Barn B referred to Bagnall Grange Farm as an historic farmstead and considers the farm to be a local historic asset. As far as I am aware it is not on the Register of Local Historic Assets but nonetheless its location close to the farmhouse and its general setting has been taken into account.

3. THE PROPOSAL

3.1 The proposal is to create a single dwelling within the existing building and demolish and re-build the eastern end of the building to create a pedestrian access. If approved the barn would become a one bedroom house with car parking in the proposed curtilage to the south of the building. The footprint and curtilages are shown on Drawing No. 1427-02.

4. PLANNING POLICIES

4.1 This is an application for a change of use of an agricultural building to a single dwellinghouse with details of associated operational development. The re-submission has been made in order to determine whether or not the prior approval of the Council is required before the development can proceed in accordance with the provisions of Part 3 Class Q of The Town & Country Planning (General Permitted Development) (England) Order 2015 as amended.

4.2 Whilst the General Permitted Development Order and PPG have been updated since planning permission was approved, nevertheless they still promote and permit the conversion of agricultural buildings. The continuing housing crisis has put even greater pressure to deliver the hosing that the country needs and the increase in number of units permitted and other changes to the legislation reflects that.

4.3 Class Q of Schedule 2 of the GPDO permits development consisting of the change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order (Class Q(a) development). Additionally, Class Q permits building operations reasonably necessary to convert the building to a use falling within Class C3 use (Class Q(b) development).

4.4 The General Permitted Development Order also defines "development not permitted", and this states that: -
Development is not permitted by Class Q if -
Q1 (i) the development under Class Q(b) would consist of building operations other than -
(i) the installation or replacement of -
(aa) windows, doors, roofs or exterior walls, or
(bb) water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse; and
(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).

PLANNING PRACTICE GUIDANCE

4.5 The Planning Practice Guidance provides formal guidance on how to interpret the legislation. Paragraph: 105 Reference ID:13-105-20180222: Revision date 22.02.2018 states:-

"Building works are allowed under the right permitting agricultural buildings to change to residential use: Class Q of Part 3 of Schedule 2 to the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended. However, the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are "reasonably necessary" "to convert the building", which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roof, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary to carry out these building operations. It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right. "

4.6 For a discussion of the difference between conversions and rebuilding, see for instance the case of Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin).

4.7 Internal works are not generally development. For the *building to function as a dwelling it may be appropriate to undertake internal structural works, including 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.*

4.8 Paragraph: 109 Reference ID: 13-109-20150305 | Revision date: 05 03 2015 states;

When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not

normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval. There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical. Additionally, the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.

When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant.

5. THE CASE FOR THE PROPOSED DEVELOPMENT

5.1 The key issue is whether the proposed residential development is in accord with the requirements of Class Q of the General Permitted Development Order (GPDO).

5.2 Class Q allows both the change of use of farm buildings to residential use and building operations necessary to convert the building subject to certain restrictions and conditions.

5.3 The restrictions include:

- *The cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit must not exceed 465 square metres.*
- *The cumulative number of separate dwelling-houses developed within an established agricultural unit cannot be more than five;*
- *The site was used solely for an agricultural use, as part of an established agricultural unit on 20th March 2013 or if the site was not in use on that date, when it was last in use.*
- *If the site is subject to an agricultural tenancy the express consent to the development from both the landlord and tenant must be obtained.*
- *If the site was subject to an agricultural tenancy more than a year has elapsed since the tenancy was terminated.*

5.4 The response to these requirements is:

- The total cumulative internal floor space of Barn C is 180.2 m² (plus Barn A which forms the basis of a separate application + = 77m²) would be = 257.2 m². This is less than the Class Q limit.
- If this application is approved there would be permission for three converted

  dwellings on the site. This remains under the requirements permitted in Class Q.
- The building contains two rooms – a tractor garage and agricultural workshop and a second room containing animal stalls for smaller animals. It is in current use and was in agricultural use on 20 March 2013. The applicant's parents and the applicant have together farmed at the land for about 50-60 years and the building is used solely for agricultural use. Class Q1(a) of the GPDO 2015 states that:

  "Development is not permitted by Class Q if -

  (a) The site was not used solely for an agricultural use as part of an established agricultural unit—

  (i) on 20th March 2013, or

  (ii) 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

  (iii) 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;

  This building meets the GPDO requirements in terms of agricultural use.
- No permitted development farm buildings under Class A(a) or Class B(a) of Part 6 of Schedule 2 of the GPDO (agricultural buildings and operations) has been carried out on the established agricultural unit since 20th March 2013.
- There is no agricultural tenancy on the site and the site has not been subject to such a tenancy.

5.5 The proposed building operations comply with the requirements in Part 3, paragraph Q1 (i)(i) of the GPDO. No structural alterations are proposed. Some doorways and windows are to be altered and windows

created and part of the building demolished and a new wall built. This would be in line with the limits in paragraph Q1(i)(i) which allows building operations including, amongst other things, the installation or replacement of windows and doors and the building of walls to the extent reasonably necessary for the building to function as a dwellinghouse.

5.6 Curtilage in relation to Class Q means (see Part Schedule 2, 3, Paragraph X) either the piece of land immediately beside or next to the agricultural building which serves the agricultural building **or** (my emphasis) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, This would be the case here. The footprint of the building is 95.4 sq. metres and the proposed curtilage would be 82.6 m². The proposed curtilage is less than the footprint and would be in accord with the GPDO.

5.7 With regard to the issues specified in specified in paragraph Q2 (1) it is considered that there are no issues with regard to transport and highways, noise and contamination and flooding. Access would be from the western side of the courtyard to the west of the building and parking would be within the proposed curtilage. The site is not within a flood risk zone on the Environment Agency maps and there are no contamination or noise issues.

5.8 The recent changes in the guidance on the Planning Practice Guidance website indicate that the permitted development right does not apply a test in relation to sustainability of location. The guidance recognises that many agricultural buildings will not be in village settlements. The local planning authority can consider whether the location and siting of the building would make it impracticable or undesirable to change use to a house but this does not relate to the issue of sustainability rather to practical considerations such as whether there is satisfactory access; whether there are services; whether it would be adversely affected by farming operations such as the proximity to a silage or manure pit. None of these, or similar, considerations apply to this site. The courtyard to the south will be primarily residential in use and character in the future and the area to the north is the access with the main working part of the farm further away.

5.9 With regard to design and external appearance the proposed changes to the building are relatively minimal and the essential agricultural appearance of the building will be maintained although this is not a requirement of the permitted development rights. The proposed changes would be in accord with both the advice on design in the national Planning Policy Framework and Core Strategy Policy DC1.

Other material considerations

5.10 A bat survey report is submitted with the application. The building is not considered to be used by bats.

5.11 The proposed conversion would provide a much needed house in the Moorlands which has a shortage of deliverable housing land. In simple terms every dwelling counts.

5.12 The delegated report for planning permission concluded that the proposal would be acceptable and therefore granted planning permission on that basis. Recent case law on the form of the Appeal Court judgment of Bates vs Maldon District Council (Case No C1/2018/2847) dated 23rd July 2019 considered the weight that should be attached to a planning permission that has expired. This judgment challenged the approval of planning permission (when that particular Council could demonstrate a five year housing supply) which took into account a previously expired planning permission on that site which was approved when the Council could not demonstrate a 5 year housing supply. This case confirmed that an expired permission can still be attached weight and re-affirmed that there is a public interest in applying a consistency in decision making. The weight that can be attached is of course a matter of judgment for the decision maker which depends on the facts and circumstances of the specific case.

5.13 In this instance as demonstrated in the paragraphs above the physical context of the site and the planning legislation broadly remains the same when the last planning application was approved. On this basis the expired permission of DET/2016/0028 should carry substantial weight in the determination process.

6. CONCLUSION

6.1 It is therefore considered that there is no reason why planning permission should be refused for the identical scheme that is now proposed and that the proposed development accords with the intentions and requirements of the General Development Order which allows the conversion of buildings to new homes in the countryside.

6.2 The District Council is therefore requested to grant prior approval for this development.

DESIGN

Use
The residential use of the site has already been accepted by the granting of a previous permission (DET/2016/0028) which although recently expired is, due to case law as referenced above still a material and significant consideration in the determination of this application.

Amount
The internal floor area in the building would be about 77 m². The proposed curtilage would consist of two parts – a northern area and an area to the south in the courtyard. The total area of the curtilage would be 82.6 m²

Scale
The dimensions of the building would be unchanged. The footprint of the building is 95.4 m². If the application is approved that would make a total of three dwellings with approval on the site. The total cumulative floorspace (Barn A + Barn C) would be 180.2 m² plus 77 m² = 257.2 m².

Layout
The changes to the present would be the creation of curtilage areas on the northern and southern sides of the building and the creation of a pedestrian access at the eastern end of the building. The southern curtilage to include a parking space.

Landscaping
The site is located within a rural setting and benefits from substantial existing mature landscaping and it is not considered that any additional landscaping will be required.

Appearance
The external changes are low key and consist of:

- North Elevation:
  - New window at western end of the elevation.
  - Demolition of the eastern end of the building where it adjoins Barn A to create a pedestrian access and the building of a new end (eastern) wall.
- South Elevation:
  - The doorway nearest to the western end of the building would be retained and glazed.

The second doorway along from the western end of the building to be changed to a window.

The next partly blocked doorway to the east to be re-opened ad a glazed door.

The next doorway to the east to be retained.

The second existing window from the eastern end of the building to be bricked up.

O West Elevation:

The existing double doors to be glazed. O The roof to be re-tiled.

Access

Access to the farm would be down the existing farm track and then around the west end of the building.