



Appeal Decision

Site visit made on 31 October 2023

by **J White BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Appeal Ref: APP/W1145/W/23/3321675

Barn at Grid Reference 235538 93892, Luffincott Farm, Tetcott, Devon EX22 6RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr John Britton against the decision of Torridge District Council.
 - The application Ref 1/1039/2022/AGMB, dated 6 October 2022, was refused by notice dated 9 December 2022.
 - The development proposed is change of use and conversion of agricultural building to 3no. dwellings and associated building operations.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use and conversion of agricultural building to 3no. dwellings and associated building operations at Barn at Grid Reference 235538 93892, Luffincott Farm, Tetcott, Devon EX22 6RF in accordance with the terms of the application, Ref 1/1039/2022/AGMB, dated 6 October 2022, and the details submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: site and location plans No 200_01A, proposed floor plans No 200_03A, proposed elevations No 200_04B and proposed elevations No 200_05B.
 - 2) Should any contamination of soil or groundwater be discovered during development of the site, the Local Planning Authority shall be contacted immediately. Site activities within that phase or sub-phase or part thereof, shall be temporarily suspended until such time as a procedure for addressing such contamination, within that phase or sub-phase or part thereof, is agreed with in writing by the Local Planning Authority. The development shall thereafter proceed in accordance with the agreed details.

Preliminary Matters

2. I have used the address from the appeal form, which is consistent with the Council's decision notice, as this more accurately reflects the location of the appeal site.
3. The description of development set out above has been taken from the appeal form, which is consistent with the Council's decision notice. The Council determined the proposal on the basis of the description in the appeal form and

I will do the same, save for omitting the words 'prior approval of the proposed' and '(Class Q under the GPDO)' in the banner heading and decision above, as these do not refer to an act of development.

Background and Main Issue

4. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, (as amended) (GPDO) sets out that development is classed as permitted development if it consists of a 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; and building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of that Schedule.
5. This is subject to a number of situations where such development is not permitted, listed under paragraph Q.1, and, subject to compliance with conditions, as set out under paragraph Q.2. The Council has not raised any issues in respect of paragraph Q.1 and I have no reasons to disagree.
6. In this case, the application was refused on the basis that the proposal would not be permitted development, as it fails to meet the provisions of Paragraph Q.2(1) (b) and (e). These provide that development is permitted subject to the condition that before beginning the development, the developer apply to the local planning authority for a determination as to whether the prior approval will be required as to noise impacts from the development, and whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order. The Council has raised concern that the proposal would likely result in an adverse impact on the living conditions of future occupiers by reason of noise, odour and flies with particular regard to the location of an existing agricultural building to the south.
7. Against that background, the main issue is whether the location or siting of the building would make it impractical or undesirable for the building to change to dwellinghouses having regard to living conditions for future occupiers with particular regard to noise, odour and flies.

Reasons

8. Paragraph W(10)(b) of Schedule 2, Part 3 of the GPDO requires that regard be had to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval as if considering a planning application. Paragraph 130 of the Framework, amongst other things, states that decisions should ensure that developments promote health and well-being, with a high standard of amenity for existing and future users.
9. There is no specific guidance on what constitutes 'impractical or undesirable' for the purposes of criterion (e) of Q.2(1) of the GPDO, but the Planning Practice Guidance (PPG) provides some further information about considerations which might be relevant.
10. The PPG sets out that 'impractical' reflects that the location and siting would 'not be sensible or realistic', and 'undesirable' reflects that it would be 'harmful or objectionable'. The example of a building on top of a hill with no road access, power source or other services is given as an instance where

conversion may be considered impractical and the example of the location of a building adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals is given as an example of a case where conversion may be undesirable. Determining whether a location is undesirable calls for an exercise of planning judgement.

11. The appeal property is a large agricultural building clad with box profile metal sheets, timber and concrete walls. The site is set within an open countryside location and is of a rural character and appearance, within a context of agricultural fields alongside a minor public road.
12. There are residential dwellings alongside the road, including to the northern side of the site which is subject of an agricultural occupancy condition. An agricultural barn lies to the southern side and there is residential development along the road beyond that. There are buildings and a yard on the opposite side of the road, which relate to an agricultural fencing business.
13. At the time of my site visit, there was no clear signs of agricultural uses or activities within the neighbouring agricultural barn to the south. Moreover, the elevation of the barn facing the appeal site was fully enclosed with metal sheeting above a concrete block wall. I observed a sliding door providing access to the building on its end gable facing the road. The building appeared to be otherwise largely enclosed.
14. Based on my observations on site and the evidence provided with the appeal submission, I am of the view that the activities associated with the existing adjacent barn would not constitute intensive farming. The barn has a separate road access to the appeal site and lacks ventilation, which indicates it would be unlikely to accommodate intensive numbers of animals. Furthermore, I have no evidence to suggest that the barn would be used for silage storage or to store dangerous machines or chemicals.
15. I recognise that there is no restriction on the agricultural use of the adjacent barn and that it could be brought into a more active agricultural use in future. However, this is a single barn close to an existing dwelling. I am satisfied that any future use is highly unlikely to become so intensive so as to cause unacceptable harm to the living conditions of future residents and render the location of the appeal building undesirable.
16. The appeal site is set away from those buildings on the opposite side of the road. There is a context of existing residential development and an intervening hedgerow alongside the road. Given the separation, I am satisfied that there would be no unacceptable harm to the living conditions of future residents so as to render the location of the appeal building undesirable in respect of those buildings and activity.
17. For the reasons given above, I conclude the location and siting would not make it impractical or undesirable for the building to change to three dwellinghouses having regard to living conditions for future occupiers with particular regard to noise, odour and flies. The requirements of paragraph 187 of the Framework would be met, by the operation of businesses unlikely to have a significant adverse effect on the housing proposed.
18. The Council has also referred to part (b) of paragraph Q.2(1) in its reason for refusal. However, this relates to the noise impacts of the development itself. In

light of the residential nature of the proposal and having regard to its location, the proposal would not in itself result in any harmful noise impacts. I do not therefore consider part (b) to be determinative in this instance.

Other Matters

19. Reference has been made by the appellant to a number of appeal decisions. I am however required to assess the proposal on its own merits having regard to its location and siting. Having done so in this case, I have found the proposal to be acceptable for the reasons set out.
20. The purpose of Class Q of the GPDO is to increase the supply of housing through the conversion of agricultural buildings, which by definition will very frequently be in the open countryside. The sustainability of the proposal, greater need for affordable housing and its effect on local infrastructure or services are not grounds in this instance to dismiss the appeal.

Conditions

21. Paragraph W(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. I have considered the conditions suggested by the Council in light of the Framework and the PPG. I have accordingly amended the wording of conditions proposed by the Council without altering their aims.
22. Paragraph Q.2(3) of the GPDO specifies that development under Class Q must be completed within a period of 3 years starting with the prior approval date, so it is not necessary or reasonable to impose a separate time limit condition.
23. I have imposed a condition specifying the relevant plans as this provides certainty. Additionally, the Environmental Protection Team has identified that there is potential for ground contamination resulting from the agricultural use of the site, a condition is therefore necessary and reasonable in the interests of human health. Given my findings above, a condition requiring the submission of a scheme of acoustic screening and soft landscaping would not be necessary.

Conclusion

24. For the above reasons, I find no grounds to refuse prior approval. Therefore, I conclude the appeal should be allowed.

J White

INSPECTOR