

Appeal Decision

Site visit made on 5 September 2016

by Gareth W Thomas BSc(Hons), MSc(Dist), PgDip, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 September 2016

Appeal Ref: APP/B3410/W/16/3153806

Land at Belmont Gate, Needwood, Staffordshire DE13 9PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
 - The appeal is made by Mr Michael Bloor against the decision of East Staffordshire Borough Council.
 - The application Ref P/2016/00463, dated 24 March 2016, was refused by notice dated 8 June 2016.
 - The development proposed is for the conversion of an agricultural building to form a single residential unit of accommodation.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Michael Bloor against East Staffordshire Borough Council. This application is the subject of a separate Decision.

Procedural matters

3. Schedule 2, Part 3, Class Q of the GPDO 2015 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 3 (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. This is subject to a number of situations where such development is not permitted, listed under paragraph Q.1, and, importantly to this appeal, to conditions in paragraph Q.2.
 4. In this case, the Council has raised an issue in relation to the exclusion in paragraph Q.1(a) and I have no reason to conclude differently in terms of this being the only relevant exclusion for consideration in paragraph Q.1.
 5. In the event that the Council is correct in its assessment, there would be no need to take the matter further as the proposal would not constitute permitted development. However, in the event that the Council is incorrect in its assessment, paragraph W of the GPDO sets out that the prior notification
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determination as to whether prior approval is needed must then be assessed against five conditions at Q.2 (1) a) to f), inclusive.

Main Issues

6. The main issues are whether the proposed development constitutes permitted development in respect of Class Q(a) of the GPDO, having regard to whether the site was solely in agricultural use, as part of an established agricultural unit, within the applicable timeframes and, where it would constitute permitted development, whether or not it would require prior approval in respect of the accompanying conditions set out in paragraph Q.2.

Reasons

7. The Council has not raised any concerns in relation to noise impacts of the proposal, contamination and flooding risks, design issues, or the transport or highways impact of the proposal. Based on all that I have read and seen, I have no reason to disagree with this view. The remaining condition in paragraph Q.2 relates specifically to whether the location or siting of the appeal building makes it otherwise impractical or undesirable for the residential use.
8. The appeal site is located in open countryside mid way between Needwood and Tutbury. The holding at Belmont Road amounts to some 3 acres and includes the appeal building, together with a building currently under renovation to provide a chicken shed. The appeal building comprises a three-bay portal structure used for the storage of hay, together with a lean-to building used to house tractors and machinery.
9. Immediately to the north of the appeal site and the subject building is a small industrial complex comprising largely of a shot blasting factory. Planning permission exists for B1, B2 and B8 uses under the Use Classes Order. A large recently completed building lies just beyond the boundary hedge from the appeal building. However it appears that the siting of the building that has been permitted is not in compliance with the planning permission. I understand that an application to resolve this issue remains undetermined. Notwithstanding, at the time of my site visit, the building was in full operation and the noise of the activities discernible from the appeal site. Indeed, the noise was also equally discernible from the nearest house at Belmont Gate.
10. The Council disputes that the appeal building was in active agricultural use at the relevant date specified in Class Q.1(a). However other than the observation of periodic visits to the site by officers over the years, no counter evidence is offered by the Council. For the appellant, various documents are submitted with the appeal, including a letter dating from 2011 from the County Land Agent with respect to a previous application for a feed bin at the site and an e-mail from the Council accepting that it may be difficult to disprove the historical claims of the appellant. Various invoices of purchases of feedstuff are also provided, which by themselves are not conclusive. The agricultural holding is registered.
11. On the evidence before me I consider that the agricultural building is presently used for agriculture and was, at the relevant date 20 March 2013, used solely for agricultural use. There is nothing in Class Q that requires the agricultural unit to be farmed or operated intensively. The proposal is compliant with the other criteria set out in Class Q and is therefore permitted development.

12. Turning therefore to paragraph Q.2, the Council has raised an issue solely in relation to the condition in paragraph Q.2 paragraph 1(e) - whether the location or siting of the building makes it otherwise impractical or undesirable for the change of use from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the UCO.
13. The GPDO states that regard must be had to the Framework so far as is relevant to the subject matter of the prior approval. Furthermore, the Government's Planning Practice Guidance (PPG) provides guidance and states clearly that the permitted development right does not apply a test in relation to the sustainability of location.
14. In so doing, the PPG makes it clear that the LPA should only apply a reasonable ordinary dictionary meaning in making a judgement on the interpretation of the words 'impractical' or 'undesirable'. 'Impractical' is where the location and siting would not be sensible or realistic and 'undesirable' is where it would be harmful or objectionable. An example given where the location might be considered impractical is where it is proposed to convert an agricultural building located on top of a hill with no services. An example of an undesirable siting might be one where the building is close to other uses such as intensive poultry farming, silage storage or buildings with dangerous machines or chemicals.
15. Although the appellant suggests that the Council has introduced an entirely new issue that would count against the development, I am required to have regard to the proposal having regard to all relevant material planning considerations. In this case, the building is within very close proximity to the shot blasting activities on a site that has the benefit of planning permission for business related activities, including problematically, B2 use. Whilst I appreciate that the building that has recently been constructed at the adjoining premises may not have been erected in compliance with the location agreed, the appeal building is too close to a general industrial complex that would potentially give rise to noise related problems.
16. As such, on the basis of what is permitted on adjoining land and what I observed and heard at my site visit, I consider that the location and siting are undesirable and the condition of Class Q.(b) is unable to be satisfied.

Conclusion

17. For the above reasons and having regard to all other matters raised, I conclude that this appeal should be dismissed.

Gareth W Thomas

INSPECTOR