
Appeal Decision

Site visit made on 30 August 2016

by Rachel Walmsley BSc MSc MRTPI

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

Decision date: 23 September 2016

Appeal Ref: APP/T3725/W/16/3149781

Warboro Farm, Henley Road, Hampton on the Hill, Warwick CV35 8QX

- 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) (England) Order 2015 (as amended).
 - The appeal is made by Mr Norman Wyatt against Warwick District Council.
 - The application Ref W/15/1541, dated 7 September 2015, was refused by notice dated 9 November 2015.
 - The development proposed is the conversion of a brick barn into a single dwelling.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO') for the conversion of a brick barn into a single dwelling at Warboro Farm, Henley Road, Hampton on the Hill, Warwick CV35 8QX in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2(1) of the GPDO through application Ref W/15/1541, dated 7 September 2015, subject to the condition that the development must be completed within a period of three years from the date of this decision in accordance with Schedule 2, Part 3, paragraph Q.2(3) of the GPDO and the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Norman Wyatt against Warwick District Council. This application is the subject of a separate Decision.

Procedural matters

3. The proposal is for the change of use of the barn and physical alterations to it, and as such relates to the types of development set out under Schedule 2, Part 3, Classes Q(a) and Q(b) of the GPDO.
 4. The GPDO requires the local planning authority to assess the proposed development against the criteria set out in Class Q, taking into account any representations received. My determination of this appeal has been made in the same manner.
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5. The Council has not cited conflict with policies from the development plan in their refusal notice, associated officer report, or in the course of the appeal. As such I have approached the appeal on this basis.

Main Issue

6. There is no dispute that the proposal meets the requirements of Schedule 2, Part 3, paragraph Q.1 of the GPDO, subject to the prior approval of certain matters. Schedule 2, Part 3, paragraph Q.2 of the GPDO sets out that development proposed under Class Q(a) together with Class Q(b) is permitted subject to an application to the local planning authority for a determination as to whether their prior approval is required in relation to the matters sets out in Schedule 2, Part 3, paragraphs Q.2(1)(a) to (f).
7. On the basis of the Council's reason for refusal and the evidence before me, the main issue in this case is whether the proposal would comply with paragraph Q.2(1) (b) and (e), namely whether the location or siting of the building makes it impractical or undesirable to change to a single dwelling, with particular regard to the effect of the proposal on the living conditions of its intended future occupants in relation to noise and disturbance and smell.

Reasons

8. The proposed development concerns a brick barn within the grounds of a working farm. The barn is surrounded by a variety of buildings and associated activities. Adjoining the barn is a garage and domestic workshop; beyond these are a farmhouse and a building housing scaffolding poles. There are also buildings within the grounds of the farm that are used for the storage of farm machinery, straw and hay, as well as a farm office and a barn for ponies and sheep.
9. The application for prior approval concerns the change of use of the barn to a single dwelling house and a number of external alterations including the installation of new windows and doors and bricking up existing openings.
10. The Planning Practice Guidance (the 'Guidance') explains that whether the location or siting of a building makes it 'impractical or undesirable' to change from an agricultural use to a dwellinghouse under Class Q of the GPDO, should be interpreted in line with its ordinary dictionary definition, i.e. whether a proposal would 'not be sensible or realistic' or 'harmful or objectionable' respectively.¹
11. The Guidance further sets out that when consideration is given to the location and siting of a proposal under Class Q, tests from the National Planning Policy Framework (the 'Framework') should not be applied except to the extent that they are relevant to the subject matter of the prior approval. In this case the subject matter of the prior approval is the effect of the proposal on the living conditions of its intended future occupants.
12. Consequently it is appropriate to consider paragraphs 17 and 123 of the Framework in this context. Bullet point 4 of paragraph 17 sets out that planning should always seek to secure a good standard of amenity for all future occupants of buildings. Paragraph 123 asks that planning should aim to avoid

¹ Reference ID: 13-109-20150305.

noise giving rise to significant adverse impacts on health and quality of life as a result of new development.

13. There is no information before me that details the activities on the farm. However, it was apparent from my observations on site that there were a number of vehicle movements around the farm. Furthermore, given the number of buildings and their different uses on the farm, it is reasonable to surmise that there would be noise from multiple vehicle movements, not least in association with the farmhouse, office, barns and car parking area to the rear of the site. Noise would also emanate from farm activities associated with the storage of hay and straw, and the movement of farm machinery and livestock, which in turn would cause disturbance to future occupiers of the new dwelling.
14. The appellant suggests that the scaffolding business on site has ceased. It was apparent from my observations on site that scaffold poles were in storage and several vehicles in association with this business were present on site. There is some possibility, therefore, that this business use is still in operation which in turn would add to the noise and disturbance identified. Notwithstanding this, when excluding the scaffold business from my considerations, I consider that the noise from multiple vehicle movements and activities on the farm would be harmful to the living conditions of future occupiers. It is also not unreasonable to suppose that this noise would occur at all times of the day and year in association with the farming calendar and therefore would cause harm all year round.
15. Given the central location of the new dwelling within the farm site, the noise would be heard from inside the new dwelling, particularly when windows and doors are open. This would result in small changes in behaviour, for example doors and windows being opened and closed and the garden being used subject to the noise outside, which would affect the quality of life of prospective residents.
16. The Guidance at paragraph 005² provides a noise exposure hierarchy which ranges from noise being 'not noticeable' to 'noticeable and very disruptive.' The noises described would fall within the 'noticeable and intrusive' category where the Guidance states that noise can be heard and causes small changes in behaviour with a perceived change in the quality of life. In these circumstances, the Guidance advocates that the planning process should be used to avoid this effect occurring by using appropriate mitigation.
17. In line with the advice in the Guidance on mitigating the adverse effects on noise, the use of an appropriately worded condition to ensure that the new dwelling is insulated to minimise the effects of noise from the dwelling's surroundings would be appropriate. In addition, the proposal would need mechanical ventilation to eliminate the need to open windows. With the implementation of an appropriate scheme, the living conditions of its intended future occupants in relation to noise would then fall within the lower 'noticeable and not intrusive' category. Such conditions would meet the test set out in paragraph 206 of the Framework.
18. I have found that the proposed garden would be exposed to noise and disturbance which in turn would affect when future occupiers used the garden.

² Paragraph 005 Reference ID: 30-005-20140306

Whilst it is not possible to mitigate external noise, noise and disturbance to the garden alone would not have a significant adverse effect on the living conditions of future occupiers to justify dismissing the appeal solely on these grounds.

19. It was apparent from my observations on site that there was no odour from the farm and I saw nothing on the farm that indicated that odour could be emitted at any time to an extent that could be considered harmful to the living conditions of future occupiers. In refusing the proposal on the grounds of smell the Council do not specify the source nor clarify what the degree of harm would be. In all, therefore, I find no substantive evidence to suggest that smell from the farm and its operations would be harmful to the living conditions of future occupiers.
20. In summary, the effect of noise could be successfully mitigated so that living at the site would not be 'harmful or objectionable' and the site would therefore no longer be undesirable. Together with the absence of any harm related to smell, the proposal would comply with paragraph Q.2(1) (d) and (e), and therefore the location or siting of the building does not make it impractical or undesirable to change to a single dwelling, with particular reference to the effect of the proposal on the living conditions of its intended future occupants in relation to noise and disturbance and smell. For the same reasons, the proposal would not be contrary to the Framework or the Guidance.

Conditions

21. Prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.³ In this context it is necessary to impose a condition regarding the stand time limitation for commencement and compliance with the relevant plans as this provides certainty.
22. Conditions with regards to contamination and surface and foul water drainage are necessary to ensure that there are no significant adverse impacts on the local environment and the amenity of prospective residents.
23. In light of my findings of this appeal, I have imposed a condition to ensure that the new dwelling is insulated to minimise the effects of noise from the dwelling's surroundings.

Conclusion

24. For the reasons given above the proposal does satisfy the requirements of the GPDO and therefore the development would be permitted development. I conclude that the appeal is allowed.

R Walmsley

INSPECTOR

³ As set out in Schedule 2, Part 3, paragraph W(13) of the GPDO.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with drawings Site and Block Plan, Plan KCC1; Existing Floor Plans and Elevations, Plan KCC2; and Proposed Floor Plan and Elevations, Plan KCC3.
- 2) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 3) The development shall not be occupied until surface and foul water drainage works have been completed in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 4) The building shall not be converted until a scheme for protecting future occupiers from the noise from surrounding activities on the farm shall have been submitted to and approved in writing by the Local Planning Authority. All works which form part of the scheme shall be completed before any part of the building is occupied and retained thereafter.