
Appeal Decision

Site visit made on 16 September 2016

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 29 September 2016

Appeal Ref: APP/J3720/W/16/3152128

Windmill Hill Barns, Coughton, Nr Alcester, Warwickshire B49 6BT

- 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.
 - The appeal is made by Mr S Lake against the decision of Stratford on Avon District Council.
 - The application Ref 16/00707/COUQ, dated 26 February 2016, was refused by notice dated 20 April 2016.
 - The development proposed is the change of use of a barn to create two dwellings.
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Decision

1. The appeal is allowed and approval is granted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of barns to create two dwellings in respect of Schedule 2, Part 3, Class Q(a) only at land at Windmill Hill Barns, Coughton, Nr Alcester, Warwickshire B49 6BT in accordance with the terms of the application Ref 16/00707/COUQ, dated 26 February 2016, subject to the condition set out at paragraph Q.2(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Application for costs

2. An application for costs was made by Mr S Lake against Stratford on Avon District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the heading above has been taken from the planning application form. However, it is clear that the Council were aware in determining the application that the proposal related to two barns, a point later clarified by the appellant by way of the submission of a corrected block plan and location plan (drawing reference 10037 (01) 011 Rev D). The Council have not sought to dispute or challenge the corrected block plan and location plan and I have therefore considered the appeal on that basis.
 4. The postcode provided for the appeal site address on the application form was incorrect and I have consequently used the postcode set out in the appellant's appeal form in the heading and decision, above.
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Main Issues

5. The main issues are:-

- Whether or not the proposed development would constitute permitted development in respect of Schedule 2, Part 3, Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO 2015) and, if so,
- To consider the transport and highways impacts of the development, and
- Whether the location or siting of the building would make it otherwise impractical or undesirable for the building to change from an agricultural use to a use falling within Class C3 (dwellinghouse) of the Schedule to the Use Classes Order.

Reasons

Whether the development is permitted under the terms of the Order

6. Schedule 2, Part 3, Class Q of the GPDO 2015 sets out that development is classed as permitted development if it consists of; (a) 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 (b) building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of that Schedule. Paragraph Q.1 sets out the circumstances where development is not permitted and paragraph Q.2 sets out the conditions which apply to Class Q development including the need to submit an application to the local planning authority for determination as to whether their prior approval will be required.
7. Class Q identifies two stages of prior approval, Q(a) and Q(b). Applicants can therefore seek prior approval in respect of the change of use in advance of dealing with the operational development matters. The proposal before me is made solely under Class Q(a). The Council has not raised any issues with regard to the relevant exclusions under paragraph Q.1, with the exception of Q.1 (g), and I have no reason to conclude differently in terms of this being the only relevant exclusion for consideration.
8. Paragraph Q.1(g) states that development is not permitted by Class Q if the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. The basis for the Council's contention regarding this paragraph was that the location and block plans submitted with the application (drawing reference 10037 (01) 011 Rev D) showed the existing building to be one single, L-shaped building whereas, at the time of the Council's consideration of the matter, the buildings in question were in fact two separate buildings.
9. The appellant has submitted a corrected version of this drawing as part of their appeal submissions (drawing reference 1003 (01) 011 Rev E). The latest version of this drawing shows two separate buildings with corresponding corrections to the extent of the associated curtilage area. From my observations during my visit to the site, I am satisfied that the content of this drawing accurately reflects the two buildings that are the subject of this application, and their relationship with each other. The Council have had

sufficient opportunity to respond to the updated version of this drawing during the appeal but have not challenged the content of the submission.

10. Thus, I conclude that the provisions of paragraph Q.1(g) are satisfied. I am also satisfied that the corrected plan demonstrates that the area of curtilage provided would be in accordance with the interpretation provided at paragraph X of the 2015 Order for curtilage in respect of Class Q proposals. I am therefore satisfied that the proposed change of use would be permitted development due to it meeting the relevant criteria in paragraph Q.1.

Transport and Highways Impacts

11. The site is accessed via the Arden Way (also referred to as New End Farm Road), a public right of way and public highway with the status of a "Green Road" from Coughton Fields Lane. The Arden Way takes its access from Coughton Fields Lane immediately to the east of the ford over the River Arrow. The Arden Way is, however, also a "through route", in that it continues in an easterly direction, beyond the appeal site, towards Spennall Lane, whilst Coughton Fields Lane continues south and east, linking with other routes leading to Alcester and the wider highway network.
12. I observed that, whilst situated close to the ford over the River Arrow, the junction into the Arden Way from Coughton Fields Lane is elevated slightly above the ford. From that point, the Arden Way rises steadily towards the appeal site. Whilst the proximity of this junction to the River Arrow is noted I have not been presented with any substantive evidence to quantify the risk of flooding at this point, or the extent to which it would prevent safe and suitable access for future residents.
13. In any event, as the Arden Way is a through-route it would be possible to achieve access to, and egress from, the site from the east, via Spennall Lane. Thus, I agree there would not be a sole reliance on access to the site from the west, via Coughton Fields Lane and the Arden Way. As a consequence, it has not been satisfactorily demonstrated that safe and suitable access for future residents could not be secured, and consequently prior approval should not be refused in respect of paragraph Q.2(2) and Q.2(1)(a) of the GPDO 2015.

Suitability of Location

14. I have been referred to a previous appeal¹ in respect of a proposal under the then Class MB of the 1995 Order (the appeal was considered under the provisions of the GPDO 2015) in respect of Windmill Hill Barns. In that instance, the Inspector found that the access to the site was by an unconsolidated farm track that was deeply rutted in places. At a distance of approximately 1km from the metalled highway, the Inspector concluded that the condition of the access track was such that it would be inaccessible by a normal car, thereby contributing to a conclusion that the location of the site was impractical and undesirable.
15. Planning Practice Guidance (the Guidance) gives advice as to the meaning of whether the location of the site would make it otherwise impractical or undesirable for the change of use to occur. It says that "impractical" reflects that the location and siting would "not be sensible or realistic". It goes on to give an example where a local planning authority may consider that an

¹ APP/J3720/W/15/3005760

agricultural building on the top of a hill with no road access, power source or other services is impractical.

16. At the time of my site visit however, the surface of the Arden Way from Coughton Fields Lane was evidently in better condition than that encountered by the previous Inspector. The surface was of a compacted, crushed brick nature and was generally level along its length leading to the appeal site. Although the weather and surface were both dry at the time of my visit, there was no evidence of potholes or ruts that could restrict access, or make passage along the lane problematic.
17. Whilst I have no grounds upon which to comment on the previous condition of the Arden Way, I found that at the time of my visit to the site, access to it via an everyday normal car was possible and indeed achievable. My observations do not therefore correlate with the Council's contention that the surface was only appropriate for farm vehicles but not an everyday normal car.
18. I appreciate that access may become more difficult in times of snow or ice, but then the same could be said of many minor routes on significant parts of the highway network in rural areas. I found the route from Coughton Fields Lane to the appeal site to be of sufficient width to allow vehicles and walkers to pass each other without difficulty, whilst I consider the scale of the proposal to be such that it would be unlikely to generate levels of vehicle movements that would result in access difficulties to the extent that it could be described as impractical or undesirable.
19. Planning permission has previously been granted for the conversion of the building at Windmill Hill Barns to holiday accommodation. Both main parties agree that the permission remains extant even though the use itself has not commenced. Although that matter is not before me, the appellant has investigated connections in respect of water and power supplies. The Council have not sought to challenge the appellant's submissions in this respect, nor has it been demonstrated how the proposed conversion would not be sensible or realistic, or how it would be harmful or objectionable.
20. Although the example given in the Guidance of a conversion that might be considered to be impractical refers to an agricultural building located at the top of a hill without power sources or other services, I conclude that on the evidence, it would be neither impractical nor undesirable to do so in this instance. Consequently, prior approval should not be refused in respect of paragraph Q.2(2) and Q.2(1)(e).

Other Matters

21. The delegated report addresses the other criteria under paragraph Q.2 and concludes that in respect of the noise impacts of the development, contamination risks on the site and flooding risks on the site, the Council's prior approval was not required. I have no reason to disagree with any of these conclusions.

Conclusion

22. I have found that the proposed development would constitute permitted development in respect of Class Q(a). For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

23. In allowing the appeal and granting approval, the appellant should note that the GPDO 2015 requires, at paragraph Q.2(3), that development under Class Q is permitted subject to the condition that development under Class Q(a) must be completed within a period of 3 years starting with the prior approval date.

Graeme Robbie

INSPECTOR