
Appeal Decision

Site visit made on 14 November 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 18th November 2016

Appeal Ref: APP/P4415/W/16/3152840

North Farm, Piper Lane, Aston, Sheffield, South Yorkshire S26 2DN

- 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 Chris Foster against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2015/1388, dated 30 September 2015, was refused by notice dated 22 December 2015.
 - The development proposed is conversion of existing agricultural livestock barn to form new 5 bed dwelling with adjoining garden and car parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Planning Practice Guidance (PPG) advises that the starting point for Class Q is that the permitted development rights grant planning permission, subject to the prior approval requirements. However, it is necessary to determine whether the proposal falls within permitted development. Class Q of the GPDO¹ states that development consisting of Q(a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order²; and Q(b) building operations reasonably necessary to convert the building, is permitted development. Where development is proposed under Class Q(a) together with Class Q(b), it is permitted subject to the condition under paragraph Q.2 (1) that before beginning the development, the prior approval of the local planning authority will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building.
3. There is no dispute that the current proposal meets the requirements of Schedule 2, Part 3, paragraphs Q.1(a)- (h) and (j) - (m) of the GPDO. The Council refused the application for prior approval because it considered that the proposed building would not accord with Class Q(b) by reason of consisting of building alterations other than those permitted under paragraph Q.1(i). The concerns include the extent of demolition proposed with respect to an existing open-sided lean-to, having regard to paragraph Q.1(i) (ii) of the GPDO.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

² The Town and Country Planning (Use Classes) Order 1987 (as amended)

4. The Council have also indicated in their evidence, in any case, that the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural to a use falling within Class C3 (dwellinghouses) due to the proximity to an existing scrap yard, and that the design and appearance of the building is inappropriate in the location.

Main Issues

5. The main issues are:
 - whether the proposal would be permitted development, with particular regard to whether the requirements of Class Q(b) and paragraph Q.1. (i) of the GPDO would be met, and;
 - If so, whether or not the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural to a use falling within Class C3 (dwellinghouses), and the design or external appearance of the building would be acceptable in accordance with the condition set out in paragraph Q.2 (1) of the GPDO.

Reasons

Whether the proposal would be permitted development

6. Paragraph 105 of the National Planning Policy Guidance (PPG) provides guidance to the background and interpretation of parts of the GPDO. In respect of the permitted development right under Class Q of the GPDO, it assumes that the agricultural building is capable of functioning as a dwelling. However, it recognises that for the building to function as a dwelling some building operations which affect the external appearance of the building and would otherwise require planning permission, should be permitted.
7. In addition to the above, the PPG also highlights that it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have that permitted development right.
8. The appeal site is within an agricultural holding located off and accessed from Piper Lane to the north west of the settlement of Aston. The building to which the proposal relates is within a group of agricultural buildings, stables and a residential caravan. The evidence before me indicates that the existing agricultural building was constructed in 1996 for the storage of grain and that a side lean-to was a later addition. At the time of my visit, the building was in use for storage of an agricultural vehicle and as accommodation for livestock.
9. The main structure of the existing building consists of a series of four steel portal frames comprising columns and rafters, with eaves and ridge height connections spanning the gently sloped pitched roof. The steel columns are encased by concrete block retaining walls of approximately 2.5m in height which are reinforced with concrete up to a 2m level. A concrete slab base of 0.2m depth provides foundations for the wall and a floor for the existing building. The roof and the upper sections of the walls consist of external cladding in the form of profiled metal sheeting, aside from an opening on the front elevation of the building and small sections removed on the side elevation

for attachment of an open-sided side lean-to. The steel frame of the lean-to is attached to the original steel frame of the main structure. However, the monopitch roof of the lean-to and temporary fencing to its sides otherwise consist of an independent structure.

10. The appellant has provided a structural report dated 20 June 2016 which was prepared by a qualified Structural Engineer. The report confirms that a survey of the building was undertaken on 31 May 2016. The survey included a structural analysis of the existing building and an assessment of the foundations. The report confirms that the existing steel frame and reinforced concrete wall structure are adequate to convert the dwelling and that the reinforced slab base and wall foundation are adequate to support any additional loads arising from the proposed conversion to the dwelling. In this respect, there is no indication that significant repairs are required to the steel frame or foundations, or that additional strengthening or support would be required to support the external works proposed. During my visit I observed that the building was in good condition with no evident structural issues and therefore, I have no reason to question the conclusions of the structural report.
11. The proposal would involve retention of the original steel frame and block work walls, but would replace the profiled metal sheeting to the upper sections of the external walls and the roof, together with the addition of windows and / or doors to each elevation. To my mind, the installation of windows and doors and alterations to the roof and exterior walls as proposed would comply with paragraph Q.1(i) (i).
12. Further to the above, to facilitate the conversion of the agricultural building into a dwelling, demolition of the existing open-sided lean-to would be required. There is no indication in the evidence before me that the lean-to provides structural support that is integral to the main part of the existing building or its steel frame. Based on the evidence before me, I consider that the steel frame, walls and foundations of the existing building that would remain, would be structurally strong enough to take the loading which comes with the external works proposed.
13. The GPDO permits "*partial demolition*" under paragraph Q.1 (i) (ii), but it does not provide any more detail of how "*partial demolition*" in this context should be interpreted. It is, therefore, reasonable to use a dictionary definition³ which shows that the word "*partial*" means "*not complete*" and therefore should in terms of this appeal, be regarded as applying to any demolition which excludes complete removal of the building. The replacement of the existing roof cladding and to part of the external walls, together with removal of the existing lean-to, would, therefore, fall within the definition of "*partial demolition*" as the main building and steel frame would remain. In this respect, I consider that the partial demolition is reasonably necessary to carry out the proposed building operations allowed by paragraph Q.1(i) (i) and therefore, would be in accordance with paragraph Q.1(i) (ii).
14. Whilst internal works are proposed, including an additional floor, internal walls and insulation, I am mindful of section 55(2)(a) of the Town and Country Planning Act, 1990. This states that operations involving the maintenance, improvement or other alteration of any building and which affect only the interior of the building should not be taken to involve development of land. In

³ <http://dictionary.cambridge.org/dictionary/british/>

this regard, there is no indication that the internal works involve structural additions to support the loading which comes with the external works proposed or that the internal works would be incapable of being supported by the existing foundations.

15. For these reasons given above, I conclude that the proposed development would comply with paragraph Q.1(i) of the 2015 GPDO in terms of the building operations being reasonably necessary to converted the building with respect to Class Q (b). Consequently, the proposal would be permitted development, subject to consideration of the conditions at Class Q.2 with particular regard to the relevant matters of those listed in paragraph Q.2 (1) of the GPDO.

Prior Approval Matters

16. Schedule 2, Part 3, Paragraph Q.2 of the GPDO sets out that where the development proposed is under Class Q(a) together with development under Class Q(b), development 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 paragraphs Q.2(1)(a) to (f). The Council has undertaken the relevant consultation in respect of this proposal required by Schedule 2, Part 3, Paragraph W, and as such it is appropriate to consider whether the proposal is also acceptable with reference to the prior approval matters. In this respect, paragraph W (10), amongst other things, requires regard to representations made and the National Planning Policy Framework (the Framework) in so far as are relevant to the subject matter of the prior approval.
17. It is common ground between the main parties that the development would be acceptable with respect to transport and highways impacts, noise impacts of the development, contamination risks on the site and flooding risks on the site. In this regard, I consider that the Council's concerns relating to the living conditions of occupiers of the building arising from existing sources of noise relates to paragraph Q.2.1(e) rather than paragraph Q.2.1(b) of the GPDO.
18. Paragraph Q.2.1(e) of the GPDO relates to 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 to the Use Classes Order. The Framework at paragraph 17, amongst other things, seeks a good standard of amenity for all existing and future occupants of land and buildings.
19. The building is located approximately 200m from an existing scrap yard, which the Council indicate has been subject to noise complaints from existing properties. During my visit in the early afternoon, I observed ongoing activity associated to the scrap yard which lies in a slightly elevated position beyond open fields with only intermittent landscaping present to the boundary with North Farm. There are a small number of intervening structures close to the building subject to this appeal, but they provide little acoustic screening.
20. At the time of my visit, the industrial noise associated to activities at the scrap yard was audible from the exterior of the existing agricultural building and appeared typical of noise levels that would be present when the scrap yard was in operation. The noise was clearly noticeable despite the presence of other sources of background noise associated to daytime activities and the agricultural processes taking place at North Farm, including the presence of

livestock. It is therefore, reasonable that the industrial noise associated to the scrap yard would be increasingly perceptible if the scrap yard were in operation during periods of lower levels of background noise. The evidence before me, indicates that there are no planning controls on the hours of operation of the scrap yard, but a Waste Management Licence restricts the hours of working to 0600-1800 hours. The current hours of operation are between 0730-1700 hours on Mondays to Fridays and 0730-1130 on Saturdays.

21. With regard to the above, taking account of the absence of a noise impact assessment and details of noise insulation, I cannot conclude based on the evidence before me that occupiers of the development would not be exposed to unacceptable levels of noise and disturbance. The potential for the scrap yard to operate as early as 0600 without restrictions could have an adverse impact on living conditions, health and quality of life of occupiers of the development at times when a quieter living environment would reasonably be expected.
22. In addition to the above, the close proximity to remaining agricultural buildings within North Farm, particularly the large building immediately adjacent used as stables and for agricultural storage, adds to my concerns. The coming and goings of vehicles and the presence of horses and livestock could also be potentially intrusive and harmful to the living conditions of the occupiers of the proposed dwellings in terms of noise and disturbance.
23. In coming to the above view, I have taken into account that there is an existing mobile home located further to the north and other dwellings on Ulley Lane in closer proximity to the scrap yard. The appellants also currently live and work at North Farm. However, I am unaware of the lawful status of the mobile home or whether its design includes any noise attenuation. Furthermore, the Council have also indicated that the operations of the scrap yard have been subject to noise complaints from nearby properties. The mobile home also appeared to be more heavily screened by landscaping from the scrap yard. In such circumstances, the presence of the mobile home and other existing properties on Ulley Lane does not outweigh my concerns.
24. Taking account of the above factors and paragraph W of the GPDO, there is insufficient information to demonstrate that the location of the proposed dwelling would not result in unacceptable harm to the living conditions of future occupiers in terms of noise and disturbance. Furthermore, I am not satisfied, based on the evidence before me, that the issues could be satisfactorily dealt with by the imposition of conditions. Unacceptable living conditions would conflict with the Framework. In the particular circumstances of this case, I conclude that there is insufficient evidence before me to demonstrate that the location of the building would not be impractical and undesirable for it to be used for residential purposes. The proposal is therefore, contrary to the requirements of the GPDO, with particular regard to Class Q(b) and paragraph Q.2.(1)(e), and the PPG.
25. Class Q.2 paragraph Q.2.(1)(f) also obliges the developer to apply to the local planning authority for a determination as to whether prior approval is required in respect of the design or external appearance of the building. The Council have expressed concerns in this respect. However, there are no restrictions within Class Q of the GPDO relating to different types of agricultural building that would preclude conversion of a steel portal framed building or imply that such buildings could not achieve a satisfactory design and external appearance.

26. The existing building is in a position of limited prominence due to its grouping with other agricultural buildings, reduced land levels to its wider surroundings and screening to adjacent boundaries. The proposal would maintain the form of the existing building, albeit that the infilling of the opening on the front elevation and inclusion of doors and windows within the outward facing elevations of the building would result in a degree of domestication. Nevertheless, I find that the change in character is unavoidable given the nature of the change of use and would not be sufficient to cause demonstrable harm. The new metal cladding of walls and roof proposed would be in keeping with the character of the building and agricultural buildings surrounding.
27. Having regard to the above, I do not consider that the proposed design or external appearance of the building would be inappropriate in the circumstances of this case. The proposal, would not, therefore, conflict with the Framework or Policy CS28 of the Rotherham Local Plan Core Strategy 2013-2028, adopted September 2014, insofar as it seeks that design should take all opportunities to improve the character and quality of an area and the way it functions. However the absence of concern with respect to paragraph Q.2.(1)(f) does not override the conclusion relating to Class Q(b), with respect to paragraph Q.2.(1)(e), of the GPDO.

Other issues raised

28. I have noted representations by third parties in terms of the planning merits of the proposal but, as the development would not meet the terms of Class Q, it is not necessary for me to consider such matters as part of my decision.
29. The appellant has drawn to my attention that other similar buildings have been allowed to be converted nearby in North East Derbyshire. However, I do not have the full details of those cases and therefore, cannot be certain that the circumstances are the same as the proposal before me. The conclusions I have reached are based upon the specific considerations relevant to this appeal proposal as described.

Conclusion

30. I have found that the building would be capable of conversion within the limitations in Class Q paragraph Q.1 of the GPDO and that the proposed design and external appearance of the building would be acceptable. However, these findings do not override my concerns with respect to Class Q paragraph Q.2 of the GPDO. Based on the evidence before me, it has not been demonstrated that the development would provide an acceptable standard of living conditions for future occupiers with regard to noise and general disturbance associated with the nearby scrap yard and adjoining buildings. Consequently, I cannot conclude that the change of use would not be impractical and undesirable with regard to Class Q(b) and paragraph Q.2.(1)(e) of the GPDO.
31. For these reasons, I conclude that the proposal would not satisfy the relevant requirements of the GPDO and the appeal is dismissed.

Gareth Wildgoose

INSPECTOR