
Appeal Decision

Site visit made on 17 October 2016

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 28 November 2016

Appeal Ref: APP/N4720/W/16/3155208

Carlton Hall Barn, Westfield Road, Carlton, Wakefield WF3 3TW

- 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 Simon Dobson of Greenfield Produce against the decision of Leeds City Council.
 - The application Ref 15/04510/DPD, dated 23 July 2015, was refused by notice dated 29 January 2016.
 - The development proposed is the conversion of an existing agricultural building into two domestic units. No change to the external volume of the existing barn. New openings and materials as shown on the application drawings.
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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 for the conversion of an existing agricultural building into two domestic units. No change to the external volume of the existing barn. New openings and materials as shown on the application drawings at Carlton Hall Barn, Westfield Road, Carlton, Wakefield WF3 3TW, dated 23 July 2015. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2(3) of the GPDO 2015 and subject to the conditions set out in the Annexe hereto.

Application for Costs

2. An application for costs was made by Mr Simon Dobson against Leeds City Council. This application is the subject of a separate Decision.

Background and Main Issue

3. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) defines that 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) (paragraph Q (a)) and building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) (paragraph Q (b)), is permitted development. A number of exclusions are set out under paragraph Q.1, but as I have no evidence to the contrary I concur with the Council's view that none of the exclusions apply to the proposal.
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4. Under paragraph Q.2 (1) of the GPDO, the developer is required to apply to the local planning authority for a determination as to whether prior approval is required in relation to (a) transport and highway impacts, (b) noise impacts, (c) contamination risks, (d) flooding risks, (e) whether the location or siting of the building is impractical or undesirable, and (f) design or external appearance.
5. The Council has not raised any concerns in relation to the matters highlighted at Q.2.(1) (a), (b), (c), (d) and (f) and I have no reason to disagree with that assessment. As such I do not consider these matters within my decision. The Council do however raise concern relating to Q.2.(1)(e) as they consider that the location of the building would be impractical in relation to the impact of the siting in a prominent location, the lack of access track, power sources and utilities.
6. Accordingly, the main issue is whether the location or siting of the building would make it otherwise impractical or undesirable for a change of use to a dwelling and therefore whether it would meet the condition specified at paragraph Q.2.(1)(e) of Class 3 Part Q.

Reasons

7. The appeal site is located within the Green Belt and land to the east of the site consists of mainly residential dwellings, with open land predominately to the west. The appeal building is located within an arable field, close to the residential dwellings within the settlement of Carlton.
8. Two main accesses serve the building, one which runs from the barn towards Queen Street which serves the farmstead and the second, from Westfield Road which is the proposed access for the two new dwellings.
9. The appeal building is a large concrete framed agricultural barn and it was evident from my site visit that the barn is in a poor state of repair externally. Nonetheless, the Council consider the building suitable for conversion and I have no evidence before me which leads me to a different view.
10. Condition Q.2.(1)(e) addresses 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). Paragraph 109 of the Planning Practice Guidance (the PGG) acknowledges that the terms 'impractical' and 'undesirable' are not defined in the regulations, but suggests as examples that the conversion of a building on top of a hill, with no road access or power source or other services would be impractical, whilst such a conversion would be undesirable where the building would be located close to environmentally challenging uses (i.e. poultry farming buildings, silage storage).
11. I note that the building in question is located in relatively close proximity to the public highway on Westfield Road with an existing access track. For practical purposes it would be reasonably necessary and realistic to expect that the proposed dwellings would be served by a hard surfaced driveway in order to provide convenient pedestrian and vehicular access to the site.
12. I accept that the access track was somewhat overgrown at the time of my visit. However, I consider it to be an adequate hard surfaced track which would accommodate a range of vehicles. Furthermore in order to address potential

visibility issues, the end of the access track would be realigned and a short section of the existing access track removed.

13. I accept that some minor improvements will be required to the existing track and works will be required for the amended access location. Nevertheless, I do not consider that the extent of these works would be substantial or harmful to the locality. In addition, I consider that the proposed length of 17 metres is relatively limited. As such, I find that the building has a functional access track in place and that the siting of the building would therefore be practical for use as dwellings.
14. The Council has highlighted concern that the new hard standing would be harmful and unduly intrusive in both the prevailing context of the building and also in respect of the openness of the Green Belt. However, that an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.
15. I am also mindful that 'Green Belt' land is not incorporated within the list of designations described under Article 2(3) as excluded at paragraph Q.1(j), which includes National Park, Areas of Outstanding Natural Beauty and Conservation Areas. On this basis I am satisfied that the policy on Green Belts in National Planning Policy Framework (the Framework) is not relevant to Class Q, as the desirability of the location or siting should be judged against the immediate surroundings.
16. I noted from my site visit that the building has an electrical connection due to the presence of lighting within the barn. Although there was a manhole cover close to the appeal building there is no evidence relating to drainage facilities or whether a water supply is available. However, I also have no reason to dispute that, given the proximity of the neighbouring residential dwellings, the installation of such services would be relatively straightforward and feasible.
17. The PPG is clear and sets out that the permitted development right does not apply a test in relation to the sustainability of location. This, it goes on to say, is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs. Furthermore, the PPG states that in considering location and siting, the tests in the Framework should not be applied, except to the extent that they are relevant to the subject matter of the prior approval.
18. I have had careful regard to the Council's concerns in respect of whether the building appears to be isolated. I acknowledge that the building is the only substantial structure in the open field. However, the main views of the building are seen on the approach into Carlton on Westfield Road.
19. On this approach the building is seen in context with the nearby residential dwellings and, despite its slightly elevated position from the public highway, does not appear as a standalone feature. Furthermore, due to the location adjacent to the main settlement, future occupiers of the dwelling would have a good level of access to services and facilities required for daily living.
20. Consequently, on the basis of my observations, I consider there is no evidence that the conversion of the building would be undesirable in respect of its location from the nearby settlement.

21. Taking all these matters into account, I therefore find that the location and siting of the building would be satisfactory and would not be impractical or undesirable

Other Matters

22. A number of local residents have raised concern with regards to the potential for overlooking. However, I consider that there would be sufficient separation between neighbouring dwellings and the proposed conversion of the building so as not to cause overlooking or other harm to the living conditions of occupiers of the neighbouring dwellings.

Conditions

23. Paragraph W.(13) of the GPDO sets out that procedurally a local planning authority is entitled to grant prior approval subject to conditions, where they reasonably relate to the subject matter of the prior approval. The Council has suggested a number of conditions which it considers would be appropriate were the appeal to be allowed. I have considered these in the light of paragraph W. (13), and also paragraph 206 of the Framework related to planning conditions.
24. In granting approval the GPDO requires at Paragraph Q.2(3) that the development must be completed within a period of 3 years from the date that the prior approval is granted. A number of other conditions apply to such development, including paragraph W(12) of the GPDO which requires that the conversion is carried out in accordance with the details provided in the application.
25. Conditions relating to the submission of full details of external cladding material, boundary treatments and hard and soft landscaping are necessary in the interests of the character and appearance of the area.
26. A condition regarding access is necessary to ensure suitable access to the site is provided and retained, in the interests of highway safety. As the site has been the subject of a past potentially contaminative land use, conditions relating to contaminated land are necessary. Furthermore, a condition relating to drainage is also necessary to confirm whether soakaway drainage is appropriate.
27. The removal of permitted development rights for future extensions and outbuildings would not be necessary as such rights are restricted by Part 1 of Schedule 2 of the GPDO (Classes A1 to H1).

Conclusion

28. For the reasons given above, and having regard to all other matters raised, the appeal should be allowed subject to the conditions listed.

Helen Cassini

INSPECTOR

Annexe: Schedule of Conditions

- 1) No development shall commence until details of the cladding materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 2) No development shall commence until details of the cladding materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) No development shall commence until details of the boundary treatments have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until details of the hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall commence until details of the access to the site has been submitted to and approved in writing by the local planning authority. The access shall be provided in accordance with the approved plans prior to the occupation of the dwellings. The access shall thereafter be retained in the approved form.
- 6) No development shall take place until the developer has submitted for the written approval of the local planning authority:
 - a) A Phase 1 (Desktop Study) Report documenting the history of the site, its surrounding area and the likelihood of contaminant/s, their type and extent incorporating a Site Conceptual Model.
 - b) A Phase II (Site Investigation) Report if the Phase 1 report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground condition. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.
 - c) A Phase III (Remediation Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to all receptors must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and procedure for dealing with previously unidentified any contamination. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the

Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

- d) Following completion of measures identified in the approved remediation scheme in 1 (c) above a 'Verification Report' that demonstrates the effectiveness of the remediation carried out, and requirement for longer-term monitoring of contaminant linkages, maintenance and arrangements for contingency action, must be produced and is subject to the approval in writing of the local planning authority.

Development shall be carried out in accordance with the approved details.

- 7)
 - a) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the local planning authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the local planning authority. The remediation strategy shall be implemented as approved.
 - b) Following completion of the remediation works as mentioned in (a) above, a 'Verification Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.
- 8) No development shall take place until a scheme for the disposal of surface water has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The dwellings hereby approved shall not be brought into use until the scheme has been implemented. The implemented scheme shall thereafter be retained for the lifetime of the development hereby permitted. The submitted scheme shall:
 - a) Provide infiltration testing in accordance with the BRE 365 guidance to clarify whether or not infiltration into the ground is a viable means of disposing of surface water.
 - b) Demonstrate that the soakaway is designed to LCC Minimum Development Control Standards for Flood Risk.