

Appeal Decision

Site visit made on 17 January 2017

by Alex Hutson MATP CMLI MArborA

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

Decision date: 26 January 2017

Appeal Ref: APP/D3505/W/16/3159893

The Piggery, Flowton Road, Burstallhill, Suffolk IP8 3ED

- 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 John Cousins against the decision of Babergh District Council.
 - The application Ref B/16/00183/AGDW, dated 10 February 2016, was refused by notice dated 5 April 2016.
 - The development proposed is change of use from agricultural building to dwellinghouse (C3).
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Decision

1. The appeal is dismissed.

Preliminary matters

2. There is no description of the proposed development on the application form. I have therefore taken the salient part of the description that appears on the Council's decision notice and on the appeal form. I am satisfied that this description is an accurate one of the proposed development.
3. The appellant has submitted revised Location Plan E427.LP1 Rev 1 as part of the appeal. This plan indicates the position of a listed building. I am satisfied that this plan does not fundamentally change the proposal. In addition, the Council has had an opportunity to comment on it. As such, my acceptance of this plan would not compromise or prejudice the interests of the Council or any interested parties. I have therefore considered the appeal on the basis of this plan.
4. The Council considers that the proposal accords with the requirements set out in Paragraph Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) so is permitted development. There is no evidence before me to the contrary and I have determined the appeal on this basis.

Main issues

5. The main issues are whether the location or siting of the agricultural building makes it otherwise impractical or undesirable for a change of use to a dwellinghouse under the provisions of Q.2.(1)(e) of the GPDO and whether there would be unacceptable noise impacts of the development under the provisions of Q.2.(1)(b) of the GPDO.
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Reasons

6. The agricultural building is currently used for storage and forms part of a larger agricultural holding in part used for the rearing of pigs. A number of other buildings, which house these pigs, lie in close proximity to the north and east of the agricultural building and its curtilage.
7. The terms 'impractical' or 'undesirable' are not specifically defined within the GPDO. However, the Government's Planning Practice Guidance (PPG) sets out that a reasonable ordinary dictionary meaning should be applied in making a judgement. It advises that impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable". The Council does not raise any concerns in respect of whether the location or siting of the agricultural building makes it otherwise impractical. Based on the evidence before me, I have no substantive reasons to take a different view on this matter.
8. The PPG advises that the change of use of a building located adjacent to other uses such as intensive poultry farm buildings, silage storage or buildings with dangerous machines or chemicals, could be defined as 'undesirable'.
9. The Council raises the concern that the close proximity of the agricultural building and its curtilage to other buildings used for the rearing of pigs would result in an unacceptable level of noise and odour for any future occupiers. The effects of noise and odour from the continued use of the agricultural buildings would, in the Council's view, make the location and siting of the agricultural building undesirable for a change of use to residential. The appellant appears to concur with this view, as would I.
10. The appellant has suggested a condition could be imposed to require the demolition of the buildings used for the rearing of pigs. However, such a condition would not prevent the continued use of the land for such purposes. This is notwithstanding any other provisions within the GPDO in respect of permitted development rights within certain proximity of a protected building. I note that such a condition has been used relating to an approved agricultural building conversion¹ within another local planning authority. Nevertheless, I have not been provided with the full details of this case to allow any informed comparisons. As such, this does not alter my views on this matter.
11. The appellant has indicated a desire to occupy the converted agricultural building. Furthermore, he has suggested a condition could be imposed to restrict occupancy to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any resident dependants. I acknowledge that the Council appears to accept that such a condition would overcome its concerns. I have also been provided with an appeal decision² where an Inspector imposed such a condition in similar circumstances.
12. However, such a condition would not restrict occupancy to the appellant. Given that the converted agricultural building would be in an undesirable location and siting, I consider it unreasonable to impose an agricultural occupancy condition that would allow occupiers not associated with the piggery to live in the converted agricultural buildings. This would be the case even if they worked in

¹ Suffolk Coastal District Council Ref DC/15/4914/PN3

² Ref APP/R3325/W/15/3132944

other agricultural or forestry practices locally or were related to any such people. Moreover, there is no substantive evidence before me to demonstrate an overriding need for a dwelling in this location. As such, the condition would not, in my judgement, overcome the fundamental living conditions concerns.

13. I note the differing views between the appellant and the Council over the term 'unacceptable noise impacts of the development' as set out within the within the GPDO. I also note the different approaches taken by Inspectors in other appeals³ which I have been made aware of. However, I come to the conclusion that any noise impacts would arise only if the development were to occur. Therefore, this can reasonably be interpreted as a noise impact *of* the development.
14. I therefore consider that the location and siting of the agricultural building would make it otherwise impractical or undesirable for a change of use to a dwellinghouse and would not satisfy the provisions of Q.2(1)(e) of the GPDO. I also consider that the change of use would result in unacceptable noise impacts of the development for any future occupiers and would not satisfy the provisions of Q.2(1)(b) of the GPDO. The change of use would therefore conflict with the aims and objectives of the National Planning Policy Framework which seeks to prevent unacceptable risks from pollution, including noise and odours and to avoid noise from giving rise to significant adverse impacts.

Conclusion

15. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR

³ Ref APP/R3325/W/15/3132944; Ref APP/Y3940/A/14/2225099; Ref APP/J3720/A/14/2229142; Ref APP/Q3305/A/14/2229228; and Ref APP/Y2736/W/14/3002184.