
Appeal Decision

Site visit made on 21 February 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 02 March 2017

Appeal Ref: APP/D3315/W/16/3160279

Steel framed former lambing/shelter barn, Yard Farm, Combe Florey, Taunton, Somerset TA4 3JB

- 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 Gerald Barons against the decision of Taunton Deane Borough Council.
 - The application Ref 11/16/0006/CQ, dated 14 June 2016, was refused by notice dated 31 August 2016.
 - The development proposed is prior approval for proposed change of use from agricultural building to dwelling house (Class C3) and associated operational development of former lambing barn.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. This appeal relates to an application made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
3. The application form did not explicitly set out what was applied for; rather this was implicit from the nature of the application form and drawings submitted with the application. The Council set out the procedure and a description and I have used this as it clearly sets out that applied for.
4. During the processing of the application the appellant submitted a drawing setting out the proposed floor plan. I have used this to inform my decision.

Main Issue

5. The main issue is whether the change of use would be undesirable in that it would not give rise to satisfactory living conditions for the proposed occupiers in terms of noise and disturbance.

Reasons

6. The appeal site consists of the area of a metal framed barn and the southeastern part of a larger timber framed pole barn, and a small open area to the southwest. Outside the appeal site the remaining part of the larger
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building provides part of the access to a building and associated hardstanding a short way to the west which is described on the drawings as a "vehicle store/garage". This building was constructed pursuant to a prior approval as an agricultural building.

7. Schedule 2, Part 3, Paragraph Q.2 of the GPDO makes it a condition that applicants must apply to the local planning authority for a determination as to whether prior approval is required of a number of matters. Included within these is "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" as a dwelling.
8. The national Planning Practice Guidance indicates¹ "undesirable" reflects that the location or siting would be "harmful or objectionable". This is expanded upon where it states that the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals. I do not consider this to be an exhaustive list but rather it makes clear that agricultural activity can be undesirable by reason of, amongst other things, noise. Conditions can be imposed which are reasonably related to the subject matter of the prior approval² to provide mitigation.
9. Paragraph W.(10)(b) of Schedule 2, Part 3 of the GPDO requires that regard must be had to the National Planning Policy Framework (the Framework) as far as relevant to the subject matter of the prior approval. One of the core planning principles in paragraph 17 of the Framework is that that decision makers should always seek a good standard of amenity for future occupiers of buildings. Paragraphs 109 and 123 of the Framework both refer to the impact that noise can have on residential amenity.
10. There is a dispute between the parties as to the degree of use of the access way to the vehicle store/garage, and clearly this will depend on the agricultural activities taking place on the holding and is likely to vary over time and season. Although evidence submitted by the appellant indicates that vehicle movements are limited this may change; what should be considered is a realistic expectation of activity to/from that area. It is also the case that the dwelling should be considered as a dwelling independent of the agricultural holding, even though it is indicated that the occupier would be employed on the holding, as there is nothing which could so restrict it and a condition to this effect would not be reasonable within the terms of a prior approval.
11. The building to the west and its hardstanding would allow a significant number of large agricultural vehicles to be parked, and they would travel immediately adjacent to the proposed buildings. The nature of agricultural operations is that seasonally they often take place in the early morning and can continue late into the evening at anti-social hours. Vehicles in such close proximity have the potential to create significant noise and disturbance, particularly at anti-social hours and could disturb sleep.
12. The proposed dwelling layout has bedrooms located away from the access way, which would minimise the effect of noise and disturbance. However, this would result in the rooms being very close to the bank and no windows are shown.

¹ Paragraph 13-109-20150305

² Schedule 2, Part 3, Paragraph W(13) of the GPDO.

Because of the close proximity of the access way to the dwelling it is not possible to be sure that it would be possible to achieve a satisfactory degree of sound insulation to the internal spaces by way of a condition within the structure so that the conversion would still fall within the relevant criteria set out in the GPDO.

13. That being the case, the proposed location would be undesirable for use as a dwelling as vehicles travelling past the appeal property would have the potential to create significant noise resulting in unacceptable living conditions for the occupiers of the proposed dwelling. It would therefore be contrary to paragraph 17, 109 and 123 of the Framework as set out above.

Conclusion

14. For the reasons given above I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR