
Appeal Decision

Site visit made on 23 February 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 20 March 2017

Appeal Ref: APP/Y3940/W/16/3162745

Building 3, Nables Farm, Scotland Hill, Upper Seagry, Chippenham, Wiltshire SN15 5HB

- 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, paragraph P.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Andrew Jackson against the decision of Wiltshire Council.
 - The application Ref 16/08475/PNCOU, dated 24 August 2016, was refused by notice dated 21 October 2016.
 - The development proposed is conversion of existing building (building No 3) falling within Class B8, for use as 3 No dwellings (Class C3) pursuant to Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015.
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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 (the GPDO) for conversion of existing building (building No 3) falling within Class B8, for use as 3 No dwellings (Class C3) pursuant to Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015 at land at Building 3, Nables Farm, Scotland Hill, Upper Seagry, Chippenham, Wiltshire SN15 5HB in accordance with the terms of the application Ref 16/08475/PNCOU, dated 24 August 2016, and the plans submitted with it, subject to the following condition:
 - i) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate
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the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.

Application for costs

2. An application for costs was made by Mr Andrew Jackson against Wiltshire Council. This application will be the subject of a separate Decision.

Procedural Matter

3. The description of development in the fourth bullet point of the above header is taken from the appellant's original supporting statement as instructed on the planning application form.

Main Issue

4. The main issue is whether or not the proposed development would constitute permitted development in respect of Class P of Schedule 2, Part 3 of the GPDO.

Reasons

5. Schedule 2, Part 3, Class P of the GPDO sets out that development is classed as permitted development if it consists of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule. This is subject to a number of situations where such development is not permitted, listed under paragraph P.1, and to the condition in P.2 setting out the matters for which an application to the local planning authority for determination as to whether the prior approval of the authority will be required.
6. In this case, I have received no evidence from the Council disputing that the criteria relating to paragraph P.1 would not be met and I have no basis to consider otherwise.
7. I have had regard to the Council's claims that the building is unsuitable or not capable of conversion without comprising development requiring planning permission. Nevertheless, I am only able to determine this appeal under the terms and conditions of Class P which gives limited scope as to what I can consider. The Council makes reference to Class Q of Schedule 2, Part 3 of the GPDO, and that the Government's Planning Practice Guidance (PPG) relating to that Class states the assumption that the building is capable of functioning as a dwelling, and that it is not the intention of the permitted development right to include the construction of new structural elements. However, no such factors are set out in respect of development proposals being considered under Class P.
8. Paragraph W(9)(c) sets out that the local planning authority may require the developer to submit details of proposed building or other operations as may reasonably be required in order to determine the application. However, such details could only reasonably be expected to address those aspects of Class P that are for consideration.
9. It therefore remains for consideration as to whether or not the proposal would be acceptable in respect of the aspects set out in paragraph P.2(b) of Class P,

concerning air quality, transport and highways impacts, contamination risks, flooding risks, noise impacts, and whether the proposal would have an adverse impact on the sustainability of the provision of storage or distribution or industrial services, or a mix of those services. The Council has not indicated that there are grounds for refusing prior approval in respect of any of those aspects.

10. I note that in respect of transport and highways, comment has been raised by the Council's Highways section that the proposal, in conjunction with other proposals for residential conversions at the farm, would result in an intensification of the use of the access. However, no specific concerns have been raised in respect of this issue and in any case the proposal would replace a B8 use which itself would have the potential to generate a significant number of vehicle movements. I am therefore satisfied that the proposal would be unlikely to pose additional risk to highway safety.
11. The Council's Environmental Health section highlights the potential for sources of land contamination arising from the former agricultural use of the site and building. However, this does not extend to over-riding concerns other than the need to ensure that any such potential contamination is addressed in respect of the proposed development. This could be reasonably secured by condition.
12. A condition is also recommended by that section in respect of restricting the hours of construction and demolition works in terms of protecting existing residential occupiers from unacceptable noise disturbance. However, I note that most of the development work would be within the existing building and the section that would be demolished is on the opposite side of the building from those existing dwellings. Such a condition would therefore be unnecessary and unreasonable.
13. No other substantive noise issues would be likely to arise from the proposed three dwellings once occupied particularly due to the fairly small number of units involved. Furthermore, I have no substantive evidence that existing activities on the wider farm site would cause sufficient noise and disturbance to prospective residents as to be harmful to their living conditions.
14. I have not received any representations raising concerns about air quality or flooding or in respect of the existing B8 use being in an area considered important for providing such services, and have no basis upon which to consider that any of those issues would be material to this case.
15. For the above reasons, the proposed development would be permitted development under Class P of Schedule 2, Part 3 of the GPDO.
16. The Council has suggested two conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the PPG and amended the wording of the first and omitted the other.
17. As I have previously referred to, a condition to ensure that future residents would be protected against any risks arising from existing land contamination would be necessary.
18. The second suggested condition relates to securing a plan of the proposed access, parking and turning areas, and the implementation and retention of those aspects. I have found there to be no basis for the proposal to be likely to

pose a risk to highway safety in respect of access. Furthermore, the submitted site layout plan, drawing No LPC/2065/SD1/1B, shows the proposed parking layout with adequate space for six cars, also with sufficient space for turning and well away from the public highway. This demonstrates that there would be no likely risk posed to highway safety in this respect either. The suggested condition relating to parking, turning and access would therefore not be necessary in this case.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR