The Planning Inspectorate

Appeal Decision

Site visit made on 20 December 2016

by Alex Hutson MATP CMLI MArborA

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

Decision date: 3 April 2017

Appeal Ref: APP/J1915/W/16/3155696
Dutch Barn, Barwick Farm, High Cross, Ware SG11 1DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning 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 Mrs Anne Peacock - Chaldean Estates Ltd against the decision of East Hertfordshire District Council.
- The application Ref 3/16/0914/ARPN, dated 14 April 2016, was refused by notice dated 10 June 2016.
- The development proposed is the conversion of the Dutch Barn into 2, 4 bedroom semi-detached houses.

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 the Dutch Barn into 2, 4 bedroom semi-detached houses at Dutch Barn, Barwick Farm, High Cross, Ware SG11 1DB in accordance with the terms of the application Ref 3/16/0914/ARPN, dated 14 April 2016, subject to the following conditions:

    1) The development hereby permitted must be completed within a period of three years from the date of this decision.

    2) The development hereby permitted shall be carried out in accordance with the following approved plans: 628/1-00 Rev PB; 628/1-01 Rev PB; 628/1-02 Rev PC; 628/1-03 Rev PC; 628/1-10 Rev PA; 628/2-00 Rev PB; 628/2-01 Rev PB; 628/2-02 Rev PB; 624/2-03 Rev PC; 628/2-04 Rev PC; 628/2-05 Rev PC; and 628/2-07 Rev PC.

    3) The presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the local planning authority. In such an event remediation measures shall be submitted to and agreed in writing by the local planning authority. The development shall thereafter be implemented in accordance with the measures agreed.

Preliminary matter

2. 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 issue

3. The main issue is whether the siting or location 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.

Reasons

Whether the location or siting of the agricultural building makes it otherwise impractical or undesirable for a change of use to a dwellinghouse

4. The agricultural building is located along a metalled lane and forms part of the Barwick Farm complex, which includes a number of residential dwellings.

5. 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".

6. The Council does not raise any specific concerns in respect of whether the location or siting of the agricultural building makes it impractical for a change of use to a dwellinghouse. Based on the evidence before me, I have no substantive reasons to take a different view on this matter. The Council refused the application for prior approval on the basis that the proposal was considered to represent unsustainable development in the countryside, given its location remote from services, facilities and public transport routes. I acknowledge that this would likely result in the reliance of any future occupiers of the proposal on the use of a private motor vehicle to gain access to any services and facilities in the wider area. It is therefore the Council's view that the location of the agricultural building makes it undesirable for a change of use to a dwellinghouse for this reason.

7. However, the PPG advises that permitted development rights do not require a test in relation to sustainability of location on the basis that many agricultural buildings will not be within settlements and any future occupiers may not be able to rely on public transport for their daily needs. Furthermore, 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 sufficient reason for refusing prior approval.

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'. Given that the agricultural building is not located adjacent to any such uses or buildings and that sustainability of location is not a matter to be taken into account, I conclude that its change of use to residential could not reasonably be defined as undesirable.

9. The Council raises the concern that the GPDO states that regard must be had to the National Planning Policy Framework (the Framework), so far as relevant to the subject matter of the prior approval, as if the application were a

planning application. I also note the Council's argument that the PPG, as guidance, conflicts with the policies of the Framework, most notably Paragraph 55, and that the unsustainable location cannot be mitigated.

10. However, I have had regard to a recent High Court Judgement[1] in respect of an appeal decision[2] which granted prior approval for the conversion of an agricultural building within East Hertfordshire to residential, notwithstanding its unsustainable location. The Judgement has held that whilst the Framework needs to be applied, as specified by the GPDO, this should be in the context of an understanding of what the particular Class seeks to achieve, and to that end the fact that an agricultural building is in a location where planning permission would not normally be granted for accessibility reasons will not amount to a sufficient reason for refusing prior approval. I afford significant weight to this Judgement, which supports my reasoning above and my decision to allow the appeal.

11. I therefore consider that the location and siting of the agricultural building would not make it otherwise impractical or undesirable for a change of use to a dwellinghouse and thus, would satisfy the provisions of Q.2(1)(e) of the GPDO.

Other matters

12. Whilst not cited as a reason for refusal, the Council raises a concern that the introduction of a residential use in this location would not represent an enhancement to the immediate setting of the site. However, in my judgement, the proposed changes to the agricultural building would be undertaken in a sensitive manner which would maintain its overall form and visual integrity with no harm arising to its setting or to the character and appearance of the area.

Conditions

13. I have had regard to the planning condition suggested by the Council in respect of contamination. I consider it reasonable and necessary in the interests of human health and the environment. However, I have added an additional part which I consider necessary in the event of any contamination that becomes evident. In addition, I have imposed a time limit condition in accordance with paragraph Q.2(3) of the GPDO. I have also imposed a condition specifying the relevant drawings as this provides certainty.

Conclusion

14. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed and approval granted.

Alex Hutson

INSPECTOR

[1] East Herts v SSCLG [2017] EWHC 465 (Admin)
[2] Appeal Ref APP/J1915/W/16/3142497