
Appeal Decision

Site visit made on 6 February 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 10 April 2017

Appeal Ref: APP/J1915/W/16/3161241

Holborn Farm, West End Road, Wormley, Wormley West End, Hertfordshire EN10 7QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Mr Adam Hunt against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/1911/ARPN, dated 20 August 2016, was refused by notice dated 4 October 2016.
 - The development proposed is subdivision and conversion of agricultural building into one single occupancy dwelling (Class C3) and associated alterations to elevations.
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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 subdivision and conversion of agricultural building into one single occupancy dwelling (Class C3) and associated alterations to elevations, at Holborn Farm, West End Road, Wormley, West End, Hertfordshire, EN10 7QN in accordance with the details submitted and subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1056 300; 1056 301; 1056 302; 1056 303 and 1056 304.

Application for costs

2. An application for costs was made by Mr Adam Hunt against East Hertfordshire District 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) Order (England) 2015 (GPDO) permits the change of use of an agricultural building and any land within its curtilage to a residential use, along with building operations reasonably necessary to convert the building.
 4. There is no dispute between the parties that the development would comply with the qualifying criteria of Class Q.1 and is therefore permitted
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development. On the evidence before me, I have no reason to come to any alternative view.

5. Development permitted under Class Q is subject to the condition that before commencement, an application must be made to determine whether prior approval is required in respect of the matters referred to in (a)-(f) of paragraph Q.2(1). The Council has raised no concerns in respect of the transport and highway, noise, contamination, flooding or design impacts of the development. I have, on the evidence before me, no reason to disagree.
6. On that basis, the main issue is whether the location or siting of the building would make it otherwise impractical or undesirable to change to a residential use.

Reasons

7. The appeal site comprises a hay barn building that is one of a number of agricultural buildings located within Holborn Farm complex and set back from the road behind the existing farm dwelling house. The proposal is to convert the front part of the existing barn building into a single dwelling house including constructing a mezzanine floor to create additional living accommodation at first floor level.
8. Paragraph W (10) (B) of the GPDO states that a local planning authority must have regard to the National Planning Policy Framework 2012 (the Framework), so far as relevant to the subject matter of the prior approval. The Council has drawn my attention to the presumption in favour of sustainable development set out in Paragraph 49 of the Framework and the provisions in respect of rural housing in Paragraph 55 of the Framework.
9. The Planning Practice Guidance (PPG) states that the permitted development right under Class Q does not apply a test in relation to the sustainability of a location¹. It states that this is deliberate as the permitted development 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.
10. The Council considers that the PPG is in conflict with the GPDO and that the sustainability of the proposal should remain a consideration in order to accord with its requirements. In my view, the practical regard to the Framework in accordance with the GPDO must be confined to the subject matter of the prior approval. In this respect the test under Paragraph Q.2(1) of the GPDO is not simply one of the sustainability of the proposal but whether the location or siting of the building makes it otherwise impractical or undesirable to change to a residential use.
11. The PPG states that a reasonable, ordinary dictionary meaning should be applied to the terms impractical and undesirable². It further states that the term impractical reflects that the location and siting would "not be sensible or realistic" and, the term undesirable reflects that it would be "harmful or objectionable". It goes on to say that the fact 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. It provides the example of an agricultural building on the top of a hill

¹ Planning Practice Guidance: Paragraph 108 Reference ID 13-108-20150305

² Planning Practice Guidance: Paragraph 109 Reference ID 13-109-20150305

- with no road access, power source or other services as one where its conversion would be impractical and the example of a building adjacent to other uses such as intensive poultry farming, silage storage or buildings with dangerous machines or chemicals as undesirable.
12. The Council considers that the location need not be as extreme as the examples given in the PPG to be impractical or undesirable to a point which cannot be mitigated. In this instance, the Council considers that the proposal would create an isolated dwelling in an unsustainable location.
 13. The Council's statement provides legal advice stating that its interpretation of the GPDO is correct as a matter of law. I am aware from the Council's submissions that they were challenging the approach set out in the PPG in the Courts. That decision has now been made³ and supports the approach in the PPG, in that it confirms there is no specific requirement within paragraph Q2(1) in relation to the accessibility of the location, and that the fact that an agricultural building is in a location where planning permission would not normally be granted for accessibility reasons, would not amount to a sufficient reason for refusing prior approval.
 14. Effectively, the finding of the Court was that Class Q creates a qualified entitlement to Permitted Development. In this context, it sets out that while accessibility is not an irrelevant consideration, the bar in relation to the test of unacceptable inaccessibility will be set significantly higher than it would be for an application for planning permission.
 15. I note that the appeal site is located in the open countryside and in a location where permission may not normally be granted for a new dwelling. However, the appeal site lies adjacent to an existing dwelling and an agricultural building recently allowed on appeal under prior approval and currently being converted into two residential dwellings⁴. Therefore, in my view, it cannot be considered to be visually isolated and there are no other surrounding units which would be incompatible with a residential use.
 16. Moreover, whilst the site would be accessed via a narrow rural road which would not necessarily be conducive to walking or cycling, the road is hard surfaced and would be easily accessible by private motor vehicle. Likely vehicular movements would be relatively limited, and the settlements of Wormley and Hammond Street are nearby with a range of services and facilities.
 17. My attention has been drawn to a number of other developments and appeal decisions⁵ including the previous appeal decision at Holborn Farm, where the interpretation of sustainability in relation to Class Q has been considered. These decisions are consistent with my approach set out above. I have had regard to these decisions in reaching my conclusions below.
 18. I conclude, therefore, that the location or siting of the buildings would not make it otherwise impractical or undesirable to change to a residential use. Thus, the proposal would accord with Condition Q.2. (1)(e).

³ East Herefordshire DC v SSCLG [2017] EWHC 465 (Admin)

⁴ APP/R3650/W/15/3095770

⁵ APP/J1915/W/16/3149444, APP/J1915/W/15/3038249, APP/J1915/W/15/3140675

Other matters

19. I note that the Council consider that the introduction of the new residential use along with associated activity and paraphernalia would result in a harmful impact on the character and appearance of this rural site. However, given the modest alterations proposed to the external appearance of the building, limited scale and the location of the proposal within the farm complex, I do not consider the proposal would have a significant material impact on the character and appearance of the area.

Conditions

20. Paragraph Q.2.(3) of the GPDO states that permitted development is subject to a condition that development permitted under Class Q must be completed within a period of 3 years starting from the prior approval date. As such, no time limit condition is necessary. Paragraph W(12) requires the development must be carried out in accordance with the details approved. For clarity and to provide certainty, I have imposed a condition to this effect.

Conclusion

21. For the reasons given above I conclude that the proposal satisfies the prior approval requirements of the GPDO with regard to being permitted development under Schedule 2, Part 3, Class Q for change of use from an agricultural building to a dwelling (Class C3). Therefore, the appeal should be allowed and prior approval is granted.

David Troy

INSPECTOR