
Appeal Decision

Site visit made on 21 March 2017

by David Walker MA MRTPI

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

Decision date: 21st April 2017

Appeal Ref: APP/C1625/W/16/3165948

The Brick Barn, Bridge Farm, Haresfield to Gloucester Road, Stonehouse GL10 3DS

- 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 Gloucestershire County Council against the decision of Stroud District Council.
 - The application Ref S.16/1459/P3Q, dated 16 June 2016, was refused by notice dated 31 August 2016.
 - The development proposed is change of use of 1 no. existing agricultural barn to 1 no. residential dwelling and building operations reasonably necessary to convert the building into a use falling within Class C3 (dwelling houses).
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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 (the GPDO) for the change of use of 1 no. existing agricultural barn to 1 no. residential dwelling and building operations reasonably necessary to convert the building into a use falling within Class C3 (dwelling houses) at land and building at The Brick Barn, Bridge Farm, Haresfield to Gloucester Road, Stonehouse GL10 3DS in accordance with the terms of the application Ref S.16/1459/P3Q, dated 16 June 2016, subject to the conditions in the attached schedule.

Preliminary Matter

2. An undertaking under section 106 of the Planning Act was submitted with the appeal seeking to address matters relating to the use of the existing barns and access at the farm. I return to the necessity and adequacy of this below.

Main Issue

3. The District Council's decision related only to the prior approval matters identified at paragraph Q.2.(1) of the GPDO. There is no indication that the proposal would not accord with the requirements and limitations of paragraphs Q. and Q.1 respectively. As I am satisfied that the consultation requirements of the GPDO have been met only the satisfaction of the prior approval matters remains to be fulfilled for the proposal to be a permitted development.
 4. I therefore consider the main issue to be whether the proposal would accord with the requirements of paragraph Q.2.(1) of the GPDO in relation to highways and transportation, noise, and contamination matters.
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Reasons

5. The proposed dwelling would be formed from a building located amongst other farm buildings around a yard and utilise an existing access onto the highway. If in future the dwelling and farm became split into different units there could be a conflict between domestic and agricultural movements and activities. While the local highway authority has raised no objection, it is clear that any conflict would relate to the internal safety of the farm yard rather than to highway safety.
6. Paragraph 35 of the National Planning Policy Framework (the Framework) requires development to be designed to create safe and secure layouts that minimise conflicts between traffic and cyclists or pedestrians. There are difficulties in reducing these conflicts with conditions. They would not be enforceable against owners of the land outside of the application site boundary. Moreover, if the site boundary were to be extended to include the access it would likely result in a curtilage that would exceed the limitations defined at paragraph X of Part 3 to the GPDO.
7. While the Planning Practice Guidance cautions against the use of planning obligations for permitted developments in these circumstances I am satisfied it would be justified. The submitted undertaking would ensure that a defined access would be available for use only in connection with the proposed dwelling. With the obligation relating to the land outside of the application site, and binding all future occupiers to the access restriction, the proposal would achieve a development that accords with paragraph 35 of the Framework.
8. Turning to noise. The proposal includes the removal of three of the barns to prevent agricultural storage uses that could be harmful to the occupants of the proposed dwelling close by. However, it would remain difficult to secure restrictions on those barns being retained. Subsequent owners of the farm buildings could not reasonably be expected to comply with restrictions imposed by conditions on a permission relating to a different site.
9. Under the submitted undertaking the appellant would be obliged to demolish those barns identified for removal before any occupation of the proposed dwelling. Occupiers of the remaining barns would be bound by restrictions on noise generating uses, including the keeping of livestock. Such restrictions as could be enforced by the District Council and would be permanent would avoid significant adverse noise impacts from farming related activities as required at paragraph 123 of the Framework.
10. No evidence has been submitted to confirm the unsuitability of the appeal building for conversion due to contamination. Having regard to the consultation advice received by the District Council there would appear to be reasonable risks associated with the conversion of former farm buildings for domestic occupation. However, these matters could reasonably be addressed by a condition requiring further investigations to be carried out before any works commence. This would ensure that the proposed dwelling would be an appropriate development for its location in accordance with paragraph 120 of the Framework.

11. I conclude that the submitted undertaking overcomes the prior approval problems with the other farm buildings close by and the use of the existing access. I am satisfied that all of the obligations are necessary, directly related to the development, and fairly and reasonably related in scale and kind for the purposes of paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010. The undertaking therefore provides a solution to the District Council's objections that was not available at the time of the application and attracts significant weight.
12. The prior approval matters being satisfied under subsections (a), (b), and (c) of paragraph Q.2(1) of the GPDO, the proposed change of use to a dwelling would be at a suitable location and siting to accord with subsection (e) of paragraph Q.2(1), also referred to in the District Council's decision.

Conditions

13. In addition to the standard condition applying to the permitted development imposed under Class Q that the development must be completed within a period of three years starting with the prior approval date, a condition is required to identify the approved plan in the interests of certainty. In addition to these a condition requiring a ground contamination scheme is a necessary pre commencement requirement for the reasons set out above. It is also necessary that any new external materials match those of the existing building to safeguard the character and appearance of the area and I attach a suitable condition accordingly.

Conclusion

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

David Walker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be completed within a period of 3 years starting with the date of this prior approval.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Drg No 21618/05 Rev B Proposed Floor Plan, Elevations & Site Plan dated May 2016.
 - 3) Any new walling and roofing materials used on the external surfaces of the building must match the existing brick walls and roof tiles of the building.
 - 4) The development hereby permitted shall not begin until a scheme to deal with ground contamination, controlled waters and/or ground gas has been submitted to and approved by the Local Planning Authority. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:-
 1. A Phase I site investigation carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice.
 2. If identified as required by the above approved Phase 1 site investigation report, a Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. Where required, the report shall include a detailed quantitative human health and environmental risk assessment.
 3. If identified as required by the above approved Phase II intrusive investigation report, a remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end-point of the remediation should be stated, such as site contaminant levels or a risk management action, as well as how this will be validated. Any ongoing monitoring should also be outlined. No deviation shall be made from this scheme without prior written approval from the Local Planning Authority.
- No part of the development hereby permitted shall be occupied until:-
4. Any previously unidentified contamination encountered during the works has been fully assessed and an appropriate remediation scheme submitted to and approved the Local Planning Authority.
 5. A verification report detailing the remediation works undertaken and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology has been submitted to, and approved by, the Local Planning Authority. Details of any post-remedial sampling and analysis to show that the site has reached the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.