
Appeal Decision

Site visit made on 25 April 2017

by S Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 11th May 2017

Appeal Ref: APP/R1010/W/17/3166928

Agricultural Building at Stockley Farm, Palterton, Chesterfield S44 6UY

- 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 D Howett and Ms S Howett against the decision of Bolsover District Council.
 - The application Ref 16/00548/DETA2R, dated 7 November 2016, was refused by notice dated 4 January 2017.
 - The development proposed is conversion of agricultural building to create a single residential unit.
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Decision

1. The appeal is dismissed.

Back ground and Main Issues

2. The application is for prior approval of the conversion of an agricultural building to create a single residential unit. The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) requires the local planning authority to assess the proposal in terms of (a) the transport and highway impacts of the development; (b) the noise impacts of the development; (c) contamination risks on the site; (d) flooding risks on the site; (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from an agricultural use to a dwelling house¹; and (f) the design or external appearance of the building (Schedule 2 Part 3 Class Q.2).
3. It is common ground between the parties that the proposal falls to be considered under Class Q. Although I have not seen a structural report, on the basis of the evidence before me and my observations during my visit I see no reason to disagree. I conclude that the proposal amounts to permitted development under Class Q and that the prior approval process as set out in the GPDO applies.
4. The Council raises no objections in respect of flooding risks or the design or appearance of the building and I see no reason to disagree. Any potential contamination risks could be addressed by a condition requiring an investigation, risk assessment and remediation scheme. I therefore consider

¹ Class C3 (dwelling houses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended (the UCO)

the main issues in this appeal are whether the proposal satisfies the remaining conditions set out in Class Q.2 and, if not, whether the imposition of conditions reasonably related to the subject matter of the prior approval could provide satisfactory mitigation as allowed for under Class W(13) of the GPDO.

Reasons

Compliance with Schedule 2 Part 3 Class Q.2 (a), (b) and (e)

5. Stockley Farm comprises a number of farm buildings in a predominantly hard surfaced yard, a bungalow with a garden and surrounding fields. The appeal proposal relates to a building in the middle of the farm yard. Three buildings in very close proximity and/or attached to the appeal building would be demolished as part of the proposal. Other than for a small part adjoining the garden of the bungalow, the proposed dwelling and its garden would be surrounded by farm buildings and yard areas. The proposed parking spaces would be at the side of the proposed dwelling opposite an open fronted barn.
6. During my site visit I observed that the some of the buildings are used for storage of large bales, agricultural implements, vehicles and so on but many, including the appeal building, are empty or underused and appear to have been this way for some time. Many are generally not in a good state of repair.
7. Future occupants of the converted building would be living in close proximity to agricultural uses, and would gain access to the dwelling by passing through the farm yard. Although there appears to be a low level of agricultural activity in the farm yard and buildings at present, if agricultural activity particularly livestock rearing intensified, then noise, odour, disturbance and inconvenience, for example from the sharing of the yard for access, would be likely to arise for future occupants of the proposed dwelling. Dust and noise from machinery could also arise from storage use.
8. The Planning Practice Guidance (the PPG) gives some indication of what the consideration of Class Q.2 (e) might entail, whilst requiring an ordinary dictionary meaning to be applied in making any judgement. Undesirable would suggest that the conversion would be harmful or objectionable. I conclude that there is legitimate concern that the proposal would result in an unsatisfactory, and therefore objectionable, living environment for future occupants of the proposed conversion for the reasons set out above. Accordingly I conclude that the proposal would fail to meet the requirements of Schedule 2 Part 3 Class Q.2 (b) and (e).
9. I acknowledge the personal circumstance of the appellants and the stated intention that intensive agricultural activities would not take place. However, intentions may change and future owners may take a different view. Nor is it for this appeal to establish what buildings might be constructed or the relevant standards for livestock under permitted development rights or legislation which may apply now or in the future. Accordingly these matters do not lead me to a different view.
10. Stockley Farm is near the bottom of a valley adjacent to Stockley Brook. Its access is from Stockley Lane, which is relatively narrow, adjoining the bridge abutments and close to a bend in the road. During my visit I observed vehicles travelling at significant speed along Stockley Lane and the relatively poor visibility from the existing access. On this basis I conclude that the addition of

turning movements arising from the proposed conversion would be likely to result in a conflict between vehicles using the access and those on the highway increasing highway safety risks. This is a further indication of the unsuitable location of the proposed conversion. Accordingly I conclude that the proposal would fail to meet the requirements of Schedule 2 Part 3 Class Q.2 (a) and (e).

Mitigation as provided for under Class W(13)

11. The National Planning Policy Framework (the Framework) and the PPG require that planning conditions should only be imposed where they meet all of the six tests. These tests require that conditions should only be imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise and reasonable in all other respects.
12. It has been put to me that a condition keeping the proposed conversion and Stockley Farm in the same ownership would overcome the concerns identified as the owner would be in control of the activities in the farmyard. However, it is not clear which activities would be curtailed and future owners of the land may have different views on the way in which Stockley Farm would need to operate. Such imprecision would unreasonably curtail the farm business and it would be difficult for the Council to enforce such a condition as there would no mechanism by which the Council would know ownership details. Moreover such a condition would not address the potential inconvenience and conflict from the sharing of the access through the yard or address potential noise in the garden, dust or odour even if a condition could satisfactorily secure sound insulation for rooms.
13. The occupation of the proposed dwelling could be suitable for some people, such as those with an essential need to live close to or on the farm for operational purposes. However the evidence does not indicate a need for an agricultural worker. Therefore conditions restricting occupation of the proposed conversion to someone working on the farm or limiting the use of the proposed conversion as ancillary accommodation would not be relevant to the development proposed irrespective of whether such conditions could be appropriate in relation to planning applications elsewhere.
14. The appellants propose that the removal of a section of hedgerow could improve visibility at the junction. However I have seen no detailed evidence showing the effect this would have on the overall extent of achievable visibility splays in relation to travel speeds along Stockley Lane. In the absence of such evidence I cannot safely conclude that the appropriate visibility for the turning movements associated with a new dwelling would be achievable irrespective of whether there has already been a reduction of turning movements associated with the use of farm yard.
15. For the reasons set out above I conclude that the proposed conditions would not be precise, reasonable or enforceable and would fail to meet all the tests of the Framework and the PPG. Accordingly I conclude that the imposition of conditions as proposed would not provide satisfactory mitigation as allowed for under Class W(13) of the GPDO and the proposal fails to meet the requirements of Schedule 2 Part 3 Class Q.2. I remain of this view whether or not the Council's Environmental Health Officer or the Highway Authority withdrew their objections on this basis.

Other Matters

16. My attention has been drawn to the decision of the Secretary of State for the Environment ex parte Walsall Metropolitan Borough Council, R v [1997] EWHC Admin 157 (18 February 1997). However, this appears to relate to significantly different circumstances and does not lead me to any different conclusion in relation to the appeal before me.

Conclusion

17. For the reasons set out above, and taking into account all other matters raised, including the size and condition of the existing agricultural buildings, I conclude that the appeal should be dismissed.

SHarley

INSPECTOR