

Appeal Decision

Site visit made on 6 June 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 17 July 2017

Appeal Ref: APP/F2360/W/17/3168408

Fiddlers Farm, Grange Lane, Longton, Lancashire PR4 5JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Tilling Brothers against the decision of South Ribble Borough Council.
 - The application Ref 07/2016/0868/APD, dated 6 October 2016, was refused by a notice dated 6 December 2016.
 - The development proposed is change of use to 3 dwellings and associated operational development.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Class Q (a) & (b) Part 3, Schedule 2, of the Town and Country Planning General Permitted Development (England) Order 2015 (GPDO) for the change of use to 3 dwellings and associated operational development at Fiddlers Farm, Grange Lane, Longton, Lancashire PR4 5JD in accordance with the terms of the application Ref 07/2016/0868/APD, dated 6 October 2016, and the plans submitted with it, subject to the standard conditions set out in Paragraphs Q.2 (3) and W(12)(a) of the GPDO, and the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Site Plan, Drawing No 16/96/3 and Proposed Scheme, Drawing No 16/96/2.
 - 2) The ground floor of the dwellings shall be used solely for the parking of motor vehicles and ancillary domestic storage for the occupants of the dwellings and their visitors and for no other purpose.

Procedural Matters

2. The Council considers that the proposal accords with the requirements set out in Paragraph Q.1 of the 2015 GPDO so is permitted development. However, when development is proposed under Class Q (a) & (b) Part 3, Schedule 2, of the Town and Country Planning General Permitted Development (England) Order 2015 the GPDO imposes a number of conditions. One of these is that the developer must apply to the local planning authority for a determination as to whether prior approval is required for a number of matters specified in paragraph Q.2 (1) (a) – (f). These include (d): flooding risks on the site and (e): whether the location of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.
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The Council has determined that prior approval is required and has refused to grant the application for items (d) and (e).

Main Issues

3. I therefore consider that the main issues in this case are:

- Whether it would be desirable for the building to change from agriculture to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, with particular regard to the risk of flooding; and
- Whether the location of the building makes it otherwise impractical or undesirable for the building to change from an agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

Reasons

Whether it would be desirable for the building to change from agriculture to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, with particular regard to the risk of flooding.

4. The application the subject of this appeal was accompanied by a planning statement¹ which included flood maps, details regarding the proposed flood risks and identified the appeal sites location within Flood Zone 2. It also stated that the proposed development, as shown on the accompanying drawings nos. 16/96/2 and 16/96/3, would have all the living accommodation set at first floor level to mitigate against the risk of flooding. The Council has refused to grant prior approval because they consider the flooding risks have not been satisfactorily addressed.
5. The appeal documents included a site specific Flood Risk Assessment² which the local planning authority have had an opportunity to comment on. The Environment Agency has also been consulted on the proposal and state that Flood Risk Standing Advice (FRSA) should be applied.
6. In accordance with FRSA the submitted FRA provides details on the flood risk vulnerability of the proposed development and flood zone compatibility. The proposed new dwellings are classed as a more vulnerable form of development and within Flood Zone 2 such development is appropriate provided a FRA is carried out and acceptable.
7. The FRA considers surface water management and advises that there would be no increase in the size of the existing building or change in the surface treatment of the land within the proposed curtilage for the dwellings. The existing surface water run-off goes into Longton Brook which runs along the sites northern boundary and is flanked by flood defence embankments approximately 900mm high. The appeal proposal would not alter the existing arrangements for the management of surface water and there would be no increase in surface water run-off from the proposed change of use. Consequently, the proposal would not result in any increase in the risk of flooding in the area.

¹ Application for prior determination notification of a proposed change of use agricultural building to dwelling, Fiddlers Farm, Prepared by Robert Schiller, Acorus Rural Property Services, October 2016.

² Flood Risk Assessment, Fiddlers Farm, Prepared by Robert Schiller, Acorus Rural Property Services, January 2017.

8. Although the FRA does not provide precise details of the estimated flood level for the site, the proposed dwellings would have all their living accommodation at first floor level which would be two metres above existing ground level. The ground floor would be used solely for storage and car parking. It seems clear to me that these arrangements would provide adequate mitigation in the event of the most serious flood, and consequently future occupiers would have a safe place to reside and the living accommodation would not be at risk from flood water.
9. Paragraph W (13) of the 2015 GPDO advises that prior approval may be granted unconditionally, or subject to conditions reasonably related to the subject matter of the prior approval. To mitigate the risks of flooding it would be reasonable and necessary to impose a condition to restrict the use of the ground floor of the proposed dwellings to storage and for the parking of vehicles and no other purpose.
10. Accordingly subject to the imposition of a condition to restrict the use of the ground floor of the dwellings as set out in the paragraph above, I conclude that it would not be undesirable for the building to change from agriculture to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, with particular regard to the risk of flooding.

Whether the location of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

11. Planning Practice Guidance³ (PPG) advises that in considering whether or not it is impractical or undesirable for the building to change from agricultural use to a dwellinghouse, a reasonable, ordinary dictionary meaning should be applied when making any judgement. 'Impractical' implies that the location and siting would "not be sensible or realistic", and 'undesirable' implies that it would be "harmful or objectionable". Local Planning Authorities should start from the premise that the permitted development rights grant planning permission, subject to prior approval requirements. It should also recognise that an agricultural building is normally in a location where the local planning authority might not grant planning permission for a new dwelling, but this is not a sufficient reason for refusing prior approval.
12. The appeal property is located within the farmyard associated with Fiddlers Farm and the Council are concerned that the location of the building within the farm unit makes it impractical and undesirable for the change of use proposed. The building forms part of a collection of similar large agricultural buildings which partially enclose a large concrete yard area. It is surrounded by open countryside and situated on the fringe of the settlement of Longton. At the time of my visit the appeal building was being used to store agricultural machinery used in connection with the agricultural enterprise, which is now solely an arable farm. It was clear from my site visit that the building had been previously in use to house cattle, but this part of the farming enterprise has now ceased to operate. Similar buildings within the farmyard appear to be used for the storage of a range of goods, including domestic storage, cars and building materials, as well as farm machinery.

³ Paragraph: 109 Reference ID:13-109-20150305

13. The Council's concern relates to the position of the building at the centre of the farm unit where the extensive yard area would be situated directly in front of the proposed dwellings. Consequently, there would be potential for the farming activities, including the movement of machinery, to result in noise and disturbance to future occupiers of the dwellings. Odour pollution is also cited as a concern.
14. The existing building forms part of one arm of series of agricultural storage buildings which form a 'U-shape' around a central yard area. The farmhouse and a collection of other farm buildings lie to the north west of the appeal site and are served by a separate means of access from Grange Lane. The appeal property is otherwise surrounded by open countryside.
15. The building is not located adjacent to any uses which may be undesirable or would result in harm to living conditions of future occupiers. Although it is clear that the adjoining buildings and yard are used to store vehicles and machinery, I have not been provided with any substantive evidence to suggest that their movement would be likely to cause an unreasonable amount of noise or disturbance. Moreover, the PPG makes it clear that the location of an agricultural building where a local planning authority would not normally grant planning permission is not a sufficient reason for refusing prior approval. The proposed plans show that a two metre high wall would be constructed around the proposed curtilage of the dwellings and that would provide some screening and noise insulation from the neighbouring farming activities. Furthermore, the proposed first floor deck would provide an amenity area with clear views and an aspect towards open countryside.
16. The farm no longer keeps livestock, however even if it were to resume a livestock element, I noted on my visit that there were a substantial number of buildings within the enterprise available for such a use, and located sufficiently far away from the appeal building so as not to cause harm to the living conditions of future occupiers, having particular regard to odour.
17. In the absence of any substantive evidence that would indicate otherwise, in my view the location of the building would not make it either impractical or undesirable for the change of use of this agricultural building to a residential use.

Other Matters

18. I have had regard to third party concerns regarding the location of the building within the Green Belt, however this is not a matter for consideration in a prior approval application, and where the change of use of the agricultural building to residential use is permitted development.

Conclusion

19. For the reasons given above I have found that the proposed development would be acceptable in terms of its location and flood risks. I therefore conclude that the appeal should be allowed.

Elizabeth Pleasant

INSPECTOR