

Appeal Decision

Site visit made on 30 August 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 11 September 2017

Appeal Ref: APP/Z4718/W/17/3170589

Elysium Barn, Cophurst Road, Cartworth Moor, Holmfirth HD9 2TS

- 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 (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Tim Kirk against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/93550, dated 21 October 2016, was refused by notice dated 5 January 2017.
 - The development proposed is conversion of an existing agricultural barn to form a single dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) enables certain types of development to take place without the need for specific planning permission, provided certain criteria are met. Provisions exist under Schedule 2, Part 3, Class Q.(a) for the change of use of an agricultural building to a dwellinghouse, and (b) the associated building operations, subject to limitations and conditions.
 3. Paragraph Q.1. of the GPDO sets out the circumstances where development is not permitted. The Council has not raised any concerns in relation to these matters and there is no evidence that leads me to a different conclusion.
 4. The Council states in its Officer Report that for the purpose of Q(a) the associated use and operations of the proposals cannot be accommodated within the limitations under Class Q, and Section X of Part 3 defining curtilage. The Council is of the opinion that the associated use and operations of the proposal would extend beyond the area shown. In the decision notice, it is not alleged that the proposal would not be permitted development, but it is still necessary for me to consider this matter.
 5. Development consisting of a change of use of a building and any land within its curtilage is permitted under Q.(a). The definition of "curtilage" for the purposes of Part 3, Class Q is (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with
-

- and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.
6. The application site, as identified by the red line of the application, includes land immediately beside the building, no larger than the area occupied by the building. This equates to the piece of land closely associated with and serving the purposes of the building. There is a car parking space that would be on the adjoining road, but with minor amendments this could be accommodated within the site. Overall, there is limited evidence that the associated use of the proposed house would extend beyond the area shown.
 7. Therefore, taking account of all that I have seen and read, I am satisfied that the proposal meets the requirements of the GPDO with regard to being permitted development under Schedule 2, Part 3, Class Q.
 8. Paragraph Q.2.(1) of the GPDO states that where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required. This includes, amongst others, matters relating to (a) transport and highways impacts of the development, (e) whether the location or siting 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.
 9. In refusing the application, the Council states that: (i) the development would have an adverse effect on highway safety and; (ii) the nature of the access road, parking provision and amenity space would make the change of use impractical and undesirable.

Main Issues

10. Therefore, the main issues are:

- The transport and highways impacts of the development; and
- Whether the location and siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a dwellinghouse.

Reasons

Transport and Highways

11. The appeal building is a modest sized barn, constructed from stone with a pitched roof. It accessed via the single track Copthurst Road, which is unadopted and unsurfaced, and Cartworth Moor Road, which is also unsurfaced. There is a public right of way running along Copthurst Road, which forms part of the 'Kirklees Way' footpath route. I understand that the roads are well-used by walkers and cyclists, in addition to providing access to the appellant's land and forestry operations, and a neighbouring farm.
12. The house would be located in a relatively remote location and occupants would be highly likely to be reliant on a private vehicle to access any services or facilities. The Council accepts that the likely increase in traffic would not be

significant. However, it remains concerned about the potential conflict with other users of the public right of way, the site access, parking arrangements and access for emergency vehicles.

13. I have not been provided with any up-to-date and detailed information of existing traffic movements on Copthurst Road, but I accept that vehicular movements are likely to be low given the rural location. The Appellant's Highway Statement¹ concludes that traffic speeds on the road are likely to be slower than 10mph. Also, both Copthurst Road and Cartworth Moor Road have straight alignments which allow clear visibility, enabling users to give way when necessary. Therefore, I do not consider that there is sufficient evidence to demonstrate that there would be conflict between road users to the detriment of highway safety.
14. The plans show that one off-road car parking space would be provided, and a further space would be provided on the verge south of the barn. Sight lines for vehicles exiting the car parking space would be restricted by the barn and the stone wall, and the use of both spaces would require vehicles to manoeuvre on the road. However, as explained above, the road is lightly trafficked and vehicle speeds are likely to be low. Whilst the road is used by walkers and cyclists, the activity is likely to be very low. Consequently, access and egress to the off-road parking space would not be detrimental to highway safety. Whilst parking on the verge is undesirable, there is very limited evidence that it would be a risk to highway safety.
15. I agree that the average attendance time for emergency vehicles is likely to be considerable, but this in itself is not sufficient justification to find against the proposal, particularly as the emergency services do not appear to have been consulted.
16. To conclude on this matter, I find that the transport and highways impacts of the development would be acceptable.

Location and Siting

17. The Planning Practice Guidance (PPG) advises that, because impractical or undesirable are not defined in the regulations, the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgement. Impractical reflects that the location and siting would "not be sensible or realistic" and undesirable reflects that it would be "harmful or objectionable". The PPG goes on to advise that the fact that the agricultural building is in a location where the local planning authority would not normally grant permission for a new dwelling is not sufficient reason for refusing prior approval. There may, however, be circumstances where impact cannot be mitigated.
18. The site area has been restricted in order to comply with the Part X Interpretation of "curtilage." The result of this is the proposed amenity space would be restricted to two separate areas, either side of the building. One of these areas would be partly used for parking. The main entrance to the building would be from the parking area and there would be another door on the opposite side of the building, opening onto the other area of amenity space. Whilst the space is less useable as it is split into two areas, in total it is

¹ Ref: 9425/MD/001/01 dated 21 July 2016

of an adequate size to serve the proposed 2/3 bedroom dwelling and would provide an acceptable standard of amenity space for future occupiers.

19. The Council is concerned that the door shown on the north elevation would enable access to the land in front of the building, which would encourage encroachment into the Green Belt. However, any material change in the use of the land to the north of the building would require a separate application for planning permission, over which the Council would have control.
20. The site is on a remote hillside and the house would be accessed via a substantial length of unsurfaced road. Moreover, it is at a relatively high altitude, on a north facing slope, and susceptible to periods of inclement weather. I accept that it is possible to reach the building by car for the majority of the year, but I have concerns about how the dwelling would be accessed during periods of ice and snow. Future occupants would be likely to require access daily in order to obtain basic goods and services, or to reach employment or education facilities. I have also taken into account the comments of a nearby resident, who explains the measures necessary to ensure access during bad weather. This includes using a snow plough to keep the road clear. However, this measure cannot be relied upon as it appears to be carried out by the neighbouring resident. Given the location, and the nature of the access, I do not consider the proposal to be sensible or realistic. The issue cannot be mitigated, except by upgrading the road, and there is no evidence that this would be likely as the road is privately maintained.
21. I have considered the satellite image provided by the appellant, which indicates a number of scattered dwellings in apparently remote areas. It is unclear how these are accessed. During my site visit I saw that some of these are accessible from surfaced roads, or via a short stretches of unsurfaced tracks, and were not comparable to the appeal proposal in terms the length of the access and its surface treatment.
22. To conclude on this issue, I find the location and siting of the building would make it impractical for the building to change from agricultural use to a dwellinghouse.

Conclusion

23. For the reasons given above, the appeal is dismissed.

Debbie Moore

Inspector