



Appeal Decision

Site visit made on 8 November 2017

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 4th December 2017

Appeal Ref: APP/J1860/W/17/3179919

Former Milking Parlour, Lombard Tree Farm, Welland Road, Hanley Swan, Worcester WR8 0EJ

- 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 Mr J Drinkwater against the decision of Malvern Hills District Council.
 - The application Ref 17/00596/GPDQ, dated 25 April 2017, was refused by notice dated 21 June 2017.
 - The development proposed is conversion of existing agricultural building to a single dwelling house.
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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 (GPDO) for the conversion of existing agricultural building to a single dwelling house at land at Former Milking Parlour, Lombard Tree Farm, Welland Road, Hanley Swan, Worcester WR8 0EJ in accordance with the terms of the application Ref 17/00596/GPDQ, dated 25 April 2017, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1885 1000 Location Plan; 1885 1001 Block Plan; 1885 3001 Proposed.
 - 2) Works shall be carried out in accordance with the recommendations set out in the Preliminary Roost Assessment report completed by Focus Ecology Ltd dated 10/3/2017, as well as the Council's recommended enhancement measures, in particular:
 - A licensed bat worker remains on call during the development works;
 - In the event that roosting bats are discovered works must cease immediately and Natural England be contacted;
 - A single bat box should be fixed to an existing built structure (e.g. Schwegler wall-mounted bat shelter 2FE, Habi-Sabi bat box or Schwegler 2FR bat tube) or installed on a mature tree (e.g. Schwegler 2F bat box). The box should be installed at least 4 metres above the ground level and not placed above windows.

Application for costs

2. An application for costs was made by Mr J Drinkwater against Malvern Hills District Council. This application is the subject of a separate Decision.

Procedural Matters and Main Issues

3. The Council considers that the proposal accords with the requirements set out in paragraph Q.1 of the GPDO and is thus permitted development, subject to the conditions set out in paragraph Q.2.(1). The Council raises no concerns in relation to conditions Q.2.(1)(a) the transport and highways impact of the development, (c) contamination risks, (d) flooding risks or (f) the design or external appearance of the building.
4. As such, I consider the main issues in this case are the noise impacts of the development and whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling, with particular regard to noise, odours and pests.

Reasons

5. The appeal building is within a complex of agricultural buildings located along a secluded country lane within the open countryside. The building was originally in use as a milking parlour, though it appears this function ceased some time ago. To the east of the site is a large traditional brick barn building that has been converted into two dwellings. To the immediate north of the building is a steel framed open sided agricultural building (building 1). This is used ostensibly as a fodder store and conditions are in place to ensure it cannot be used to accommodate livestock. To the north west of the site are two modern agricultural buildings. 'Building 2' is around 16m from the site. This was being used for storage at the time of my visit. Building 3 is an open fronted building used for the wintering of cattle. This is around 37-40m from the appeal site. No cattle were in the shed during my visit, and none were visible in adjoining fields. However, I am satisfied that there would be periods when building 3 would be used to accommodate cattle, though poultry and pigs are restricted by condition.
6. The Council's reason for refusal makes reference to conditions (b) and (e). It appears from the evidence that the Council is concerned about the potential noise impacts *on* the development from other agricultural buildings in the vicinity of the site. In my view, the purpose of condition (b) is to consider whether the development itself would have any harmful effects by virtue of noise, rather than whether it is unacceptably affected by noise. I am satisfied that the noise impacts from the development on neighbouring residents would be minimal and acceptable.
7. Planning Practice Guidance (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 would 'not be sensible or realistic', and 'undesirable' implies that it would be 'harmful or objectionable'. Local planning authorities should recognise that an agricultural building might be in a location where the planning permission would not normally be granted for a new dwelling, but this is not a sufficient reason for refusing prior approval. Nonetheless, I consider it reasonable in the context of

condition (e) to consider the likely effect on living conditions from nearby agricultural buildings and whether such effects would make it undesirable to allow the conversion.

8. The Council accepts that there is no set distance from which a dwelling should be located away from an agricultural building and an element of judgement is required based on the particular circumstances of any case. While I recognise the appeal building is closer to the agricultural buildings than the neighbouring dwellings, their rear gardens and elevations have no form of screening or landscaping between them and the farming activity. As such, for the most part the relationship with the agricultural buildings and associated activity of the nearest of the two dwellings would not be significantly different to that of the appeal site. The relatively small difference in distance between buildings is unlikely to result in any materially different effect on living conditions in terms of noise, odours or the presence of pests.
9. Whilst I do not have the full details of either the permissions granted for the conversion of the barns or those relating to agricultural buildings, it would be reasonable to assume that the Council had full regard to the living conditions of future or existing occupants in all cases. I note that permission was granted for all of the agricultural buildings bar the former milking parlour after the approval of the conversion to dwellings. I also note that there were no objections from Worcestershire Regulatory Services (WRS) in this case regarding the living conditions of future occupants. I consider this to be an important factor. There is no evidence to suggest that the occupants of these dwellings have been subject to unacceptable levels of disturbance, odours or pests since the agricultural buildings were constructed. Building 2 would also provide a degree of screening from the cattle and, while this might be subject to some change, building 3 is not necessarily in use all year round. The Council was presumably satisfied that the operation of building 3 would not adversely affect the existing residents and I see no reason why it should unduly affect those who may live in development.
10. As such, whilst there would inevitably be a degree of noise, odour and potentially some pests associated with the periodic housing of cattle in building 3, this would not be unusual in a rural setting such as this. I am not therefore convinced by the evidence before me that in this case the relationship between the cattle shed and development would inevitably lead to unacceptably harmful effects on the living conditions of future occupants.
11. I recognise that the building is more closely related to on-going farming activity than the existing dwellings and that the occupants may be more affected by noise from tractors and machinery in the farmyard itself. While I recognise all farming practices could change over time, there is nothing to suggest that this is a large operation which results in a significant level of daily activity. I am therefore satisfied that the level and nature of activity would be such that it would not result in prolonged or excessive noise levels. I saw no evidence of machinery other than a tractor and, while there is an access off the road that would pass by the flank of the development, there is also evidence to suggest that cattle would enter the site from the north and would thus not pass by the dwelling. Equally, activity relating to building 1 would also be to the north of the site. Moreover, any activity associated with this building would have a similar relationship to the development as it would the rear of the neighbouring dwelling, which has previously been considered acceptable.

12. The continued use of building 2 for storage would be unlikely to have any particular effect. I note the Council's concern that there are no restrictions on this building and that at some point in the future this could be used for the housing of livestock. However, notwithstanding the difference in distance, I do not consider that the situation for future occupants would be so fundamentally different to those living in the neighbouring dwelling to warrant a different approach.
13. It would be unrealistic to conclude that occupants of the building would not be subject to some degree of potential noise from the on-going use of the farmyard and buildings associated with it. However, the issue is whether this would result in unacceptable conditions for future residents and I am not convinced by the evidence before me that farming activity in the vicinity of the site would lead to such effects.
14. The Council has drawn my attention to the limitations of Part 6, Schedule 2 of the GPDO which concerns permitted development rights for agricultural buildings. This suggests that the accommodation of livestock should not be within 400 metres of a dwelling, unless there are particular circumstances which justify it. I am not convinced of the relevance of this. It simply means that buildings within this distance, subject to the other provisions mentioned, would not be classed as permitted development and would need to be considered by a planning application where the effect on living conditions can be fully assessed. I do not consider that the provisions of the GPDO do not mean that agricultural buildings housing livestock within 400 metres of a dwelling are inherently harmful or unacceptable. I tend to agree with the appellant in that if this were the case, then it would be reasonable to assume that such restrictions would appear within the provisions of Class Q. Indeed, the situation already exists in this location where the Council has ostensibly granted permission for such a building well within this distance and clearly did not consider that it would result in an unacceptable effect on existing occupants of the converted barn.
15. The Council has drawn my attention to another appeal where the Inspector concluded that there would be an unacceptable impact on living conditions. I have little doubt that there will be situations where the particular circumstances of an appeal would result in an unacceptable conflict between residential and agricultural uses. Nonetheless, I have not been provided with the full details of the alternative case. I cannot therefore conclude with any certainty that the two cases are entirely comparable in terms of the specific nature of activity on the respective sites, the relationship between the buildings and the relationship between any existing dwellings and the agricultural activity. The appellant has highlighted a number of potential differences between the two cases, including the fact that there are no workshops or fuelling facility within the appeal site, which are likely to result in different effects. In any event, I have considered this appeal based on its own merits, taking into account the evidence before me and my own observations of the site and area.
16. In conclusion on this matter, I therefore find that the development would not result in unacceptable living conditions for future residents and that the building would not be in a location where it would be undesirable to convert the agricultural building into a dwelling. Paragraph W(10)(b) of the GPDO states that regard can be had to the National Planning Policy Framework insofar as it

is relevant to the subject matter of the prior approval. In this regard, I see no conflict with the core planning principle of ensuring that development creates a good standard of amenity for all existing and future occupants.

Conclusion and Conditions

17. For the reasons set out above, I conclude that the proposal satisfies the requirements of the GPDO for the change of use from an agricultural building to a dwelling, as set out in Schedule 2, Part 3, Class Q both with regard to being permitted development and also meeting the prior approval conditions. Therefore, the appeal should be allowed and prior approval is granted.
18. The GPDO requires at Part 3 paragraph W(12)(a) that the development shall be carried out in accordance with the details approved by the local planning authority, though I have included a condition listing the approved plans in the interests of clarity and certainty. Paragraph Q.2(3) also stipulates that development shall be completed within a period of three years. As such, I do not consider that a specific condition is required in this regard. I have amended the Council's suggested condition accordingly.
19. Paragraph W(13) of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. I have considered the additional conditions suggested by the Council and appellant. I have imposed the condition relating to bats in light of the findings of the Roost Assessment report. However, there is no substantive evidence before me that a condition on drainage is necessary in light of there being no indication of increased flood risk or drainage problems resulting from the development. Finally, I have not imposed the suggested conditions from the appellant as I do not consider they are necessary in this case.

S J Lee

INSPECTOR