



Appeal Decision

Site visit made on 10 September 2019

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2019

Appeal Ref: APP/P2935/W/19/3233319

Dutch Barn, Wylam Wood Farm, Wylam, Northumberland NE41 8HZ

- 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 Peter Wolf against the decision of Northumberland County Council.
 - The application Ref 19/00569/AGTRES, dated 14 February 2019, was refused by notice dated 18 April 2019.
 - The development proposed is a notification for prior approval for a proposed change of use of agricultural building to a dwellinghouse.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development that is set out in the banner heading above is taken from the Council's decision notice and the appeal form, for the purposes of accuracy and clarity. The description on the application form, whilst describing the building subject of the proposal and a planning approval for the conversion of nearby buildings, only provides a limited description of the proposal itself.
3. The appellant submitted amended plans with the appeal which show how the proposal would be accessed. The application submission did set out that the existing access from the buildings onto Wylam Wood Road would provide access for the proposal, and this is consistent with what is shown on the amended plans. As the Council and interested parties have had the opportunity to consider the amended plans during the course of the appeal, no party has been prejudiced. Accordingly, I have considered them in my decision.
4. The appellant submitted a blank costs claim form with the appeal. No details of the costs claim has been forthcoming. Hence, I have not considered this matter further.
5. Class Q. of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) permits under paragraph (a) the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within

Class C3 (dwellinghouses) of the Town and Country Planning (Use Classes) Order 1987 (as amended), or under paragraph (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building to such a dwellinghouse. The appellant sought approval only under paragraph (a) and I have determined the appeal on this basis. Hence, matters relating to building operations fall outside of my consideration.

6. The Council states that the appellant has provided insufficient information concerning both protected species and, with regard to the conditions that Class Q(a) development is subject to under Class Q.2 (1) (a), the transport and highways impacts. The appellant contends that it is not necessary to submit protected species information under the provisions of the GPDO and, in addition, that the amended plans submitted with the appeal demonstrate that the transport and highways impacts would not be unacceptable.

Main Issues

7. The main issues are whether or not the proposal is permitted with regard to protected species and, under Class Q.2. (1) (a) of the GPDO, the transport and highways impacts.

Reasons

Protected Species

8. Regulation 9 of the Conservation of Habitats and Species Regulations 2017 (Habitat Regulations) imposes a duty to consider the relevant Directives¹ and whether there is a reasonable likelihood of European Protected Species being present and affected. As a consequence, this is a consideration for development that is said to be permitted development, in a prior approval or other appeal. That the GPDO does not repeat this requirement of the Habitat Regulations does not mean that it does not apply.
9. Whilst the appellant does not consider that protected species information is required, a bat and barn owl risk assessment from 2015 was submitted with the application. It acknowledges records of bat activity in the area, albeit it finds no signs of bats and barn owls in the building subject of the proposed change of use and does not recommend surveys. The Council Ecologist response to the application, though, is considerably more recent and also points to a pond within the vicinity of the site that has the potential to be suitable for great crested newts (GCN), as well as providing more general advice on bats. Bats and GCN are European Protected Species.
10. Overall, I consider there is credible evidence of a reasonable likelihood of protected species being affected and, accordingly, this is a case where it is necessary to submit protected species information. The information that I have is not, however, sufficient to satisfy me that the proposal would not result in harm to protected species, in particular with the dated nature of the appellant's assessment and whether it still provides an accurate record of protected species activity in the building and the area. Nor is this a matter which could be dealt with by way of a condition as it would not enable the decision maker to consider whether the proposal would have an adverse effect on protected species, in deciding whether or not to grant approval.

¹ Habitats Directive (Council Directive 92/43/EEC) and the Wild Birds Directive (Directive 2009/147/EC)

11. Both parties have referred to prior approval appeal decisions in their submissions that support their view over the relevance of protected species. These decisions predate the current version of the Habitat Regulations. I am also mindful of the strong protection that is afforded to protected species through these regulations and this attracts significant weight in my decision when the reasonable likelihood of their presence is also considered, including for development that is the subject of the GPDO. Whether or not the Council has referred to the requirement, or the significance, of a related survey on previous decisions on the site only carries limited weight in this respect.
12. As such, I conclude that the proposal would not be permitted with regard to protected species.

Transport and Highways Impacts

13. The building that would be the subject of the proposed change of use is located close to a number of other buildings at Wylam Wood Farm which have already been converted for residential use, or have approval as such, based on the information before me. The existing access off Wylam Wood Road would be utilised for the proposal. The surface material of the access is formed of uneven exposed ground, together with setts and cobble materials.
14. The junction of the access onto Wylam Wood Road permits reasonable visibility to the west. Visibility is of a more limited nature to the east, which the Council's Planning Officer Report considers would not comply with Manual for Streets standards. The amended plans that have been provided, whilst showing that the proposal would be accessed from Wylam Wood Road, do not establish whether or not the appropriate visibility splay could be achieved. There is insufficient information in order for me to be satisfied that there would not be undue highway safety concerns, with the use of the proposed access.
15. The appellant has suggested that, in the event of an approval, such a matter could be dealt with through the imposition of a condition. Unlike improvements to the surface material that would also be required, this would appear to involve land, though, which is outside of what is shown on the amended plans. Hence, this further demonstrates the uncertainty over whether or not the appropriate visibility splay could be achieved.
16. Matters in relation to how the Council dealt with the application as regards providing an opportunity for the appellant to submit further information on transport and highway impacts are not for my consideration.
17. Therefore, I conclude that the proposal would not be permitted under Class Q.2. (1) (a) of the GPDO, regarding the transport and highways impacts.

Conclusion

18. For these reasons, and having regard to all matters that have been raised, I conclude that the appeal should be dismissed.

Darren Hendley

INSPECTOR