



Appeal Decision

Site visit made on 30 September 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th October 2019

Appeal Ref: APP/W3520/W/19/3233697

Nissen Hut Two, Lodge Farm, The Common, Botesdale, Suffolk IP22 1LG

- 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) Order 2015 (as amended).
 - The appeal is made by Mr James Carter against the decision of Mid Suffolk District Council.
 - The application Ref DC/19/01054, dated 28 February 2019, was refused by notice dated 13 May 2019.
 - The development proposed is change of use of agricultural building to a dwelling house and associated operational development.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of the agricultural building to a dwelling house and associated operational development at Nissen Hut Two, Lodge Farm, The Common, Botesdale, Suffolk IP22 1LG in accordance with the terms of the application DC/19/01054 made on 28 February 2019, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. I have considered the appeal scheme as an application under Class Q (a) and (b) as it includes a change of use and building operations. The submitted drawings do not show the position of a conservatory at Lodge Farm, but they still form a useful basis for assessing the effects of the appeal scheme. This appeal is being considered concurrently with the appeal¹ at Nissan Hut 1 but on its own merits.
3. Paragraph Q.1 of the GPDO states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on the 20 March 2013 or, in the case of a building which was in use before that date, but was not in use on that date, when it was last in use. Although I observed no physical evidence of any agricultural activity at the appeal site and the Council has referred to domestic storage within the building, the Council is otherwise content that the building meets the criteria in Paragraph Q.1(a) and therefore it is not something I have considered further.

¹ APP/W3520/W/19/3233694

4. The appellant has suggested that the Council failed to determine the application for prior approval within the required period and therefore works can commence. However, I share the view of the Council's Solicitor that an application for prior approval is not a proper application until the fee is paid. The Council apparently determined the application for prior approval within 56 days of the fee being received. I therefore consider the decision was made in time in the absence of evidence to the contrary.

Main Issue

5. Paragraph Q.2 states that development is permitted subject to the condition that before beginning the development, the developer must apply for a determination of prior approval in respect of six specified matters. The Council is of the view that the location or siting of the building makes its change of use to a dwelling impractical and undesirable because it would result in a harmful impact on privacy and thus living conditions.
6. Nissan Hut 2 (Hut 2) is a single storey structure located to the south east of Lodge Farm. The appeal scheme is to convert it to a one-bedroom dwelling. This would include three windows along the eastern elevation providing an outlook over the access road. There would also be a window in the front elevation overlooking the rear garden of Lodge Farm. The overlooking of the rear garden would be at close range and thus unreasonable without mitigation.
7. The appellant has suggested that a fence or wall, softened by landscaping, could be erected as mitigation. The Council has not explained why this would be inappropriate or would not sufficiently mitigate the impact on the privacy of the occupants of Lodge Farm. The boundary treatment could be 2m high and this would prevent occupants of Hut 2, which is single storey, from being able to see into the garden space of Lodge Farm which, in any event, is large and includes areas on the north western side of the dwelling that would not be overlooked. Such boundary treatment would also safeguard the privacy of the occupants of Hut 2.
8. Although not a concern raised by the Council, I am mindful that the erection of boundary treatment in front of Hut 2 would limit the outlook of future residents. Nevertheless, the aspect to the east would be unobstructed and towards open fields and this would therefore provide an acceptable outlook to the property as a whole.
9. Although not forming part of its reason for refusal, the Council has indicated that the proposal could result in harm to the living conditions of the occupants of Lodge Farm² from the noise and disturbance associated with vehicle movements and comings and goings at Hut 2. The movements associated with the proposed dwelling would be at close range to Lodge Farm, but they would not be regular occurrences. Boundary treatment would attenuate some of the noise impacts upon the occupants of Lodge Farm. On balance, the infrequent number of vehicle movements would ensure there would be no harmful impact overall.
10. The general activity associated with the residential occupation of Hut 2 would likewise be modest and acceptable given the small size of the dwelling. It

² There would be no impact on the potential future occupants of Nissan Hut 1 as the appeal relating to this building has been dismissed

would also be similar to that which occurs at The Barn, a property to the north which is at a similar proximity to Lodge Farm.

11. I therefore conclude that the location or siting of the building would not make its change of use to a dwelling impractical or undesirable.

Conditions

12. In granting approval, the appellant should note that the GPDO requires (at Paragraph Q.2 (3)) that development permitted under Class Q (a) and (b) must be completed within a period of 3 years starting with the prior approval date. Moreover, Class W of the GPDO states that where prior approval is required, the development must be carried out in accordance with the details submitted and approved.
13. In order to safeguard the privacy of future occupants of the appeal scheme and the occupants of Lodge Farm, it is necessary to secure details of boundary treatment, which should be in the form of a wall or fence softened by landscaping. It is necessary to ensure the parking space is retained in the interests of highway safety and the living conditions of future occupants. To protect the character and appearance of the area it is necessary for details of external finishing materials and landscaping to be approved. The construction works would take place in close proximity to Lodge Farm, so it is necessary to limit construction hours in the interests of living conditions.

Conclusion

14. For the reasons given above, I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

1. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of existing trees, hedges and shrubs to be retained as well as all new planting and hard surfaces. It shall also include details of boundary treatment. The boundary treatment shall be implemented in accordance with the approved details prior to the first occupation of the dwelling with all other landscaping carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be approved, in writing, by the Local Planning Authority.

Any trees, hedges, shrubs or turf identified within the approved landscaping scheme (both proposed planting and existing) which die, are removed, become seriously damaged or seriously diseased, within a period of 5 years of being planted or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and species.

2. The hereby permitted development shall only operate between the hours of 0730hrs and 1700hrs Mondays to Fridays and between the hours of 0730hrs and 1300hrs on Saturday. There shall be no working on Sundays and Bank Holidays. There shall be no deliveries to the development arranged for outside of these hours.
3. No development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and fully applied prior to the first occupation.
4. The parking space shown on approved drawing 1838 PL 102 Rev C shall be retained as somewhere for the occupants of the approved dwelling to park and shall be used for no other purpose.