
Appeal Decision

Site visit made on 16 June 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2020

Appeal Ref: APP/Z3825/W/20/3247214

Copsale Stables, Copsale Road, Copsale, Horsham RH13 6QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 Mrs Faye Algar against the decision of Horsham District Council.
 - The application Ref DC/19/2477, dated 10 December 2019, was refused by notice dated 5 February 2020.
 - The development proposed is described as 'change of use from an agricultural building to residential (C3). The application is a resubmission of DC/19/1938 as the application required amendments to the plans'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address given to the appeal site varies in relation to the building name and postcode between the application form, appeal form, submitted drawings and the appellant's evidence. I have used the address stated on the submitted drawings which is consistent with the Council's report and decision notice in the banner heading above.
3. Amendments were made to the Site Location and Block Plan (drawing number TM 037/101) during the application process. I have been provided with iterations labelled as revisions P1 (dated 10 December 2019), P2 (dated 8 January 2020) and P3 (dated 14 January 2020). The appellant states that there is a curtilage area associated with the building which is appropriate to create amenity space, and the latest revision P3 includes an area around the building within the land edged red. The Council's decision notice also identifies that the application was determined with regard to drawing TM 037/101 P3, and I have considered the appeal on the same basis.

Background and Main Issues

4. The appeal proposes change of use of an agricultural building to a dwelling under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). This permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order¹,

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

and building operations reasonably necessary to convert the building. This is subject to compliance with conditions which are set out at paragraph Q.2. Paragraph Q.1 also identifies situations in which development is not permitted.

5. The main issues are:

- i) whether or not the proposal would comply with the conditions and limitations applicable to development permitted under Schedule 2, Part 3, Class Q of the GPDO with particular regard to the size of the proposed curtilage; and if so,
- ii) whether or not the location and siting of the buildings makes it impractical or undesirable for the proposed change of use to a dwelling with particular regard to the effects of odour, noise and disturbance on living conditions for future occupiers.

Reasons

6. For the purposes of Class Q, paragraph X of Part 3 of the GPDO sets out that 'curtilage' means (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.
7. The appellant states that 'there is a curtilage area associated with the building which is appropriate to create amenity space for the dwellings [*sic*] created.' The Site Location and Block Plan (drawing TM 037/101 rev P3) shows an area edged in red as the proposed site boundary. This includes part of the area currently occupied by a covered tractor store between the building and the adjacent pole barn, and hardstanding to the front of the building. No alternative plan has been provided indicating that the intended curtilage does not comprise the whole of this area around the building, and I have no other grounds to reasonably establish any smaller area. Accordingly, I can only proceed on the basis that the curtilage would comprise the entire site subject to the proposal as indicated by drawing TM 037/101 rev P3.
8. The appellant has not offered an alternative assessment to challenge the Council's suggestion that the building occupies an area of 156sqm, and that the area of the proposed curtilage is 228sqm. In any event, it is plain from drawing No. TM 037/101 rev P3 that the area of the curtilage is far larger than the area occupied by the agricultural building. The curtilage would therefore exceed the allowance established at Paragraph X of Part 3 of the GPDO.
9. I therefore conclude that the proposal would not meet the requirements of Class Q of the GPDO with regard to the definition of curtilage in Part 3, Paragraph X. Accordingly, the proposal does not benefit from deemed consent granted by the GPDO and it would not amount to permitted development under Class Q, irrespective of compliance with other parts of the Class.
10. I have had regard to the comments of interested parties and the Council's other reason for refusal which contends that the siting of the building makes it undesirable to change to residential use. However, in light of my findings that the proposal would not comprise permitted development under Class Q, it is not necessary for me to consider whether the scheme complies with the remaining provisions of Class Q. This is because even if I were to find that the

proposal complied with these requirements, this could not alter my conclusion as to whether the appeal scheme constitutes permitted development.

Other Matters

11. The appellant has referred to extensions and alterations carried out to nearby properties. However, this is not a factor which alters my assessment of the principle of development on the appeal site which is established by the GPDO.

Conclusion

12. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR