



Appeal Decision

Site visit made on 15 June 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2020

Appeal Ref: APP/L1765/W/20/3246900

Windrush Stables, Sciviers Lane, Upham, Southampton, Hampshire

SO32 1HB

- 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 Sue Ambrose of Ambrose Farm Produce against the decision of Winchester City Council.
 - The application ref 19/01829/PNACOU, dated 22 August 2019, was refused by notice dated 6 November 2019.
 - The development proposed is the conversion of a timber framed agricultural building to form one single private residential dwelling.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of 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 Order') for the conversion of a timber framed agricultural building to form one single private residential dwelling at Windrush Stables, Sciviers Lane, Upham, Southampton, Hampshire SO32 1HB in accordance with the application ref 19/01829/PNACOU dated 22 August 2019 and the details submitted with it pursuant to Article 3(1) and Schedule 2, Part 3, Class Q. This approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with paragraph Q.2(3) of the Order and the following additional condition:
 - 1) Prior to occupation of the building as a residential dwelling details for the disposal of foul and surface water drainage shall be submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented before occupation of the building as a residential dwelling and thereafter retained.

Background

2. There is no dispute that the proposed development meets the definition and limitations of Class Q as set out in paragraphs Q and Q.1 of the Order respectively, subject to the determination of prior approval.
3. The Council refused to grant prior approval for two of the detailed matters required to be approved under paragraph Q.2 of the Order, namely: 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 use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

Main Issues

4. Having regard to the detailed matters in dispute, I consider the main issues to be:
 - the noise impact on the living conditions of future occupants; and
 - whether the location or siting of the building would restrict the ability of the agricultural holding to function without causing adverse impact on occupants of the proposed dwelling by reason of odour.

Reasons

Noise

5. From my observations of the site it appears to me that the pig farming operation is relatively small and is an extensive rather than intensive operation with animals being reared mainly outside with moveable pig arcs for shelter. Although farrowing and weaning of pigs may have taken place in the adjacent barn, it is not designed for the keeping of livestock being more suited to storage. From the evidence before me it appears to be used mostly for storage purposes related to the agricultural holding, with only occasional use for the keeping of animals.
6. Because the holding and agricultural operation are relatively small the activities associated with them, including the size and amount of machinery, is limited. Some noise would be generated by the farming activities taking place adjacent to the appeal property. There would also be some noise from vehicles using the access, although I note that there is another access further to the south that the appellant says would be used for farming operations.
7. Because of the relatively limited scale of the agricultural operation I do not consider that the level of noise would be excessive or unusual, particularly in a rural area where agricultural operations are part and parcel of normal daily activity. I therefore conclude that the noise impact of the farming operation would not harm the living conditions of future occupants of the appeal building.

Odour

8. At the time of my visit, there were no livestock near the appeal building and the adjacent barn was being used for the storage of agricultural equipment. However, I note from the Council's submission that pigs have been kept closer to the building, including a small paddock immediately to the south, and farrowing and weaning have taken place in the adjacent barn.
9. While I appreciate that the raising of pigs and other livestock can, in certain circumstances, give rise to complaints about odour, in this case with the animals kept mainly outside and farmed extensively that does not appear to be the case on this holding. On my visit I experienced no smell or odour problem and as noted in correspondence between the Council and appellant there have been no complaints received regarding the pigs and other animals kept on the site. The barn has occasionally been used to keep livestock but on the evidence before me that type of use has been infrequent and short lived.

10. The Planning Practice Guidance¹ advises that the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals. None of those situations apply in this case, the adjacent building and land not being use for intensive animal rearing or other agricultural uses that are incompatible with a residential use.
11. Having regard to all I have seen and read, I conclude that future occupants of the appeal building would not be inconvenienced by odour, nor do I consider that the ability of the agricultural holding to function would be restricted because of concerns about odour having an adverse impact on the occupants of the proposed dwelling.

Other Matters

12. The Council raises no objections to the other detailed matters requiring prior approval under paragraph Q.2, namely: transport and highways impacts of the development; contamination risks on the site; flooding risks on the site; and the design or external appearance of the building. I have no reason to disagree.
13. A local resident is concerned that granting prior approval may set a precedent for similar conversion of agricultural buildings in the vicinity. However, the principle of the conversion of agricultural buildings to residential use is enabled through nationally determined permitted development rights rather than as a decision of the Council, and consideration of the detailed matters requiring prior approval is dependent on the particular circumstances in each case.
14. Upham Parish Council raised concern about flooding. The site lies within flood zone 1, in which there is a low flood risk. The Council notes that while areas around the site are liable to flood it considers that the site itself would not flood. In the absence of any evidence to the contrary, I consider the scheme to be acceptable in this regard.
15. My attention has been drawn to other examples of the conversion of agricultural buildings to residential use. However, these all have differing circumstances to the appeal proposal, including different locations and different relationships between the buildings and associated agricultural holdings. For that reason I give them only limited weight.
16. The Council is satisfied that the proposed development would not increase nitrate enrichment in wastewater and has concluded that it would not have an adverse impact on the Special Protection Areas and Special Areas of Conservation around The Solent. The Council's email of 4 November 2019 to the appellant provides written confirmation of that conclusion pursuant to Regulation 77 of the Conservation of Habitats and Species Regulations 2017. This satisfies the conditional requirement imposed by Regulation 75 of the Habitats Regulations and Article 3(1) of the Order, in so far as it applies to European protected habitats.

Conditions

17. Paragraph W (13) of Part 3 of Schedule 2 of the Order allows for the imposition of conditions reasonably related to the subject matter of the prior approval. I

¹ Reference ID: 13-109-20150305

have considered the conditions suggested by the Council in the light of this paragraph and the advice on conditions in the National Planning Policy Framework.

18. Paragraph Q.2 (3) of the Order requires that the development must be completed within a period of 3 years from the date of this decision. Therefore, there is no need for me to impose this as a separate condition, although for completeness I have referred to it in my decision.
19. I have added a condition requiring details of foul and surface water drainage to be approved and implemented in the interests of securing proper sanitary arrangements for the development and reduce the potential for localised flooding. Having regard to the advice in paragraph 55 of the National Planning Policy Framework I do not consider it needs to be a pre-commencement condition and have modified the wording accordingly.
20. There is no need for a condition listing the approved plans, as the Order requires that permitted development is carried out in accordance with the details approved.
21. The Council has also suggested a condition which appears to be intended to restrict future extensions or additions. As the authority would be able to determine an application for development at the time it was proposed, such a condition is unnecessary. If the intention of the condition is to restrict permitted development rights, paragraph 53 of the National Planning Policy Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. I see no justification to do so in this case.

Conclusion

22. For the reasons given above, the appeal is allowed and prior approval is granted.

Guy Davies

INSPECTOR