



Appeal Decision

Site visit made on 8 September 2020

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 18 September 2020

Appeal Ref: APP/F3545/W/20/3254058

Agricultural barn south of New Road, Beck Row IP28 8ZD

- 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 Order).
 - The appeal is made by Mr & Mrs Sore against the decision of West Suffolk Council.
 - The application Ref DC/19/2214/P3QPA, dated 7 November 2019, was refused by notice dated 6 January 2020.
 - The development proposed is Prior Approval Application under Part 3 of the Town and Country Planning (General Permitted Development)(Amendment and Consequential Provisions) (England) Order 2015- (i) Change of use of agricultural building to dwellinghouse (Class C3) to create 2 no. dwellings (ii) associated operational development.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of an agricultural building to 2 No. dwellings at land at Agricultural barn south of New Road, Beck Row IP28 8ZD in accordance with the terms of the application Ref DC/19/2214/P3QPA, dated 7 November 2019 and the plans submitted with it and subject to the attached schedule of seven conditions.

Application for costs

2. An application for costs was made by Mr & Mrs Sore against West Suffolk Council. This application is the subject of a separate Decision.

Procedural Matters

3. The planning application form describes the proposal in terms of a reference to the application drawings. I have therefore taken the description of development from that used in the appeal form and the decision notice as this more fully reflects the proposed development.
4. Schedule 2, Part 3, Section W of the GPDO sets out the prior approval process. It states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval for the

proposal under Schedule 2, Part 3, Class Q of the GDPO which relates to change of use from agricultural buildings to dwelling houses.

Main Issue

5. The main issue is whether the proposal would be permitted development, with particular regard to whether the requirements of Class Q of the Order would be met.

Reasons

6. The appeal building is a steel-framed structure with a corrugated fibre cement sheet roof-covering. Access is gained via a track leading off New Road. The building is set back from the road, between the residential property of Marward House and New Road. To the west of the site lies agricultural land and to the east there are buildings from which a business operates, and agricultural land.
7. Under paragraph Q.1 (a), 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 20 March 2013.
8. The Planning Practice Guidance (PPG) advises that "The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of the development has already been established" and further guides that "It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system".
9. It is not disputed that Marwood House, in which the appellants reside, is, under the permission¹ granted by the Council, subject to an agricultural occupancy condition ensuring that the occupants are employed in agriculture.
10. Whilst there is no detailed evidence before me regarding any agricultural trading activities or financial information in relation to such activities at the site, third parties have provided letters confirming the use of the building in association with an agricultural business over a significant period of time. At the time of my site visit agricultural paraphernalia and packaging commensurate with the carrying out of agricultural operations was present within the building and surrounding area. Furthermore there is little substantive evidence to demonstrate that it has been used for any other purpose than as part of an established agricultural unit since it was built or that it was not in such use on 20 March 2013.
11. My attention has been drawn to an appeal decision, Planning Inspectorate Ref APP/E3525/W/19/3222585, which the Council considers similar to the case before me. However, I have limited information regarding the details of that decision. Whilst the Inspector cites examples of evidence to demonstrate agricultural use, this list is not definitive and other evidence and degrees of proof may be acceptable in regard to a particular case. I have, in any case, determined this appeal on its own merits.

¹ Council Ref F/75/386

12. On balance of the evidence that has been provided in this particular case I find that the proposal would be permitted development, with particular regard to the requirements of Class Q of the Order.

Conditions

13. Paragraph W.(12)(a) of the GPDO requires that the development is carried out in accordance with the details provided in the application. Paragraph Q.2.(3) of the GPDO requires that the development must be completed within a period of 3 years from the date of this decision.
14. In addition to these the Council have requested five conditions and I have had regard to these, and the comments on those Conditions provided by the appellants.
15. Conditions requiring the submission and approval of details to deal with contamination of the site and actions to be taken should contamination be identified during the works are necessary to protect and prevent the pollution of controlled waters and protect future end users of the land, neighbouring land, property and ecological systems from potential pollutants associated with current and previous land uses. These aims accord with those parts of the National Planning Policy Framework -2019- (the Framework) which seek to conserve the natural environment, Environment Agency Groundwater Protection: Principles and Practice (GP3), and policies within the development plan. Similarly a condition is required to ensure that the remediation has been completed satisfactorily. The identification of contamination and agreement of details to remediate it is necessary prior to commencement since it relates to consideration of below ground matters that require resolution prior to further development taking place to ensure any contaminated material is satisfactorily dealt with. The appellants have agreed to the proposed condition.
16. The site lies in close proximity to an operational airport and so a condition requiring the submission and approval of details of a noise protection and mitigation scheme is necessary to protect the living conditions of future occupants. The proximity of the site to dwellings requires the imposition of a condition controlling working and delivery hours, to protect the residential amenity of neighbours. These are both in accordance with policies within the development plan.
17. I have amended some of the suggested wording of the Council's conditions for clarity and to ensure that they are precise and enforceable.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed, and prior approval granted.

I Dyer

INSPECTOR

Schedule of seven conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Proposed Elevations 386-P-03; Proposed Floorplans 386-P-02-RevA.
- 3) No development approved by this planning permission shall commence until the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:
 - i) A site investigation scheme,
 - ii) The results of a site investigation based on i) and a detailed risk assessment, including a revised Conceptual Site Model (CSM),
 - iii) Based on the risk assessment in ii), a remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency actions.
- 4) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works as set out in the remediation strategy is submitted to and approved, in writing, by the Local Planning Authority.
- 5) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 6) Prior to the occupation of any unit/dwelling all of the noise protection and mitigation works associated with that unit/dwelling as detailed in technical report 32917-R1 shall be completed in their entirety in accordance with the approved details. Thereafter the approved works shall be retained in perpetuity.
- 7) No construction site machinery or plant shall be operated, noisy works shall be carried out and no construction related deliveries taken at or despatched from the site except between the hours of 0800-1800 Monday to Friday, 0800-1300 Saturday and not at any time on Sundays or Bank or Public Holidays.

END OF CONDITIONS