
Appeal Decision

Site visit made on 29 September 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2020

Appeal Ref: APP/W1850/W/20/3254732

Crookshill Farm, Acton Beauchamp, Worcester WR6 5AB

- 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 Barry Kearley against the decision of Herefordshire Council.
 - The application Ref 194190, dated 30 November 2019, was refused by notice dated 10 February 2020.
 - The development proposed is change of use of an agricultural building to a dwellinghouse (Class C3) and for building operations reasonably necessary for the conversion.
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Decision

1. The appeal is dismissed

Procedural Matters

2. The application forms did not include a description of development. Consequently, it has been taken from the appeal forms and the decision notice with minor modifications to the wording for clarity.
3. There is a clerical error within the Council's decision notice, in that restrictions on Class Q permitted development rights, relating to the carrying out of agricultural permitted development rights, are set out under Part 3 Class Q.1 (f) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and not Part 3 Class Q.1 (g), as referenced in the decision notice. I have dealt with the appeal accordingly.
4. It appears that there are no extant planning permissions on the site, having subsequently lapsed, and no fallback position exists. This was confirmed by another Inspector at appeal¹ and there is no evidence to come to a different conclusion. Accordingly, arguments relating to fallback carry limited weight.
5. The Council has stated it is satisfied with the appellant's submissions on agricultural tenancy and has withdrawn the corresponding reason for refusal. Consequently, in the absence of other interested party comments, the matter is not dealt with any further under the appeal.

¹ APP/W1850/W/19/3242211

Main Issues

6. The main issues are:

- (a) whether building works have already taken place;
- (b) the effect of the proposal on transport and highway safety;
- (c) the effect of the proposal's siting on living conditions in relation to noise from agricultural uses; and
- (d) whether the location or siting of the building makes it otherwise impractical or undesirable for a change of use.

Reasons

Building Works

7. The site is located amongst a collection of agricultural buildings associated with Crookshill Farm. Based on the satellite imagery submitted by the Council, it is clearly apparent that the agricultural building subject to this appeal has evolved in terms of its construction, from around 2005, through to 2020. Consequently, depending on the size of the agricultural unit, such works for the alteration of an agricultural building would either fall under Part 6 Class A (a) or Class B (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). In either of these scenarios, if the works were carried out after 20 March 2013, they would be contrary to Part 3 Class Q.1 (f) of the order.
8. The statements of truth provide accounts based on personal beliefs but do not demonstrate without doubt that the building has not evolved over time. Conversely, the satellite imagery is objective evidence showing that the construction and form of the building's roof profile has evolved beyond the trigger date in the relevant part of the order. Based on the objective nature of the evidence, it carries more weight in determining the facts of the case. Consequently, in the absence of competing objective evidence or reasons why the satellite imagery should not be taken as accurate, the proposal would be contrary to Part 3 Class Q.1 (f)(i) of the order and is not permitted development.

Transport and Highways

9. The site is accessed off of the B4220, a national speed limit highway. Herefordshire Highways Design Guidance requires adequate visibility splays to comprise a 'y' distance of 215 metres, from a setback of 2.4 metres. The vertical alignment of the highway, with the access on the crest of a hill, in conjunction with the encroachment of trees and hedgerows in close proximity to the highway, obscures views somewhat when entering and exiting the site. However, these characteristics in and of themselves do not make the access unsafe, as demonstrated by the appellant, and mirrored in the Council's highways assessment of previous proposals on the site.
10. The nature of residential traffic may be different from agricultural traffic. However, the proposal is unlikely to generate additional volumes of traffic given its limited scale. Furthermore, there is an existing residential use on site, and the unknown or unregulated movements it may already generate have not led to issues of highway safety.

11. Consequently, even though the access may not comply with guidance on visibility splays, it appears proportionate to the likely movements to and from the site and I cannot conclude there would be issues of safety. The proposal therefore complies with Part 3 Class Q.2 (1)(a) of the order.

Noise

12. The site comprises a collection of agricultural buildings associated with Crookshill Farm. The proposal would see a reduction in the number of agricultural buildings on site, and associated activities therein, but some would remain. The Council contends that the proximity of livestock in adjacent buildings would generate noise that was not compatible with the proposal. Noise from these buildings was not apparent during my site visit, however I can appreciate that I was only there for a finite period of time. In any event, whether or not the existing buildings are used for the keeping of noisy livestock at present is somewhat of a peripheral matter.
13. This is because the continuation of agricultural activities on the wider site would mean that the likelihood of livestock being kept somewhere else in close proximity to the proposal would be high. Theoretically, the proprietor could move livestock around the site at will, which could be directly adjacent to the proposal, whether in the existing buildings or somewhere else nearby in the yard. This would be outside the controls of the planning system and it would be unreasonable to make a finding against the proposal on this basis. Furthermore, it is implicit in the permitted development right, that delivering residential uses within established rural locations is likely to require a level of subsistence with agricultural uses, including noise and other elements intrinsic to the character of such an area. Consequently, the proposal would be compliant with Part 3 Class Q.2 (1)(b) of the order.

Location

14. Planning Practice Guidance was updated in March 2015 and February 2018 to provide guidance specifically in relation to Class Q within paragraphs ref ID: 13-104- 20150305 to 13-109-20150305. It is made clear that the Class Q permitted development right does not apply a test on, nor do the prior approval matters relate to, the sustainability of location. Consequently, the Council's argument that the proposal is not in a sustainable location would be inappropriate to consider under this appeal, and in this regard the proposal would not fail to comply with Part 3 Class Q.2 (1)(e) of the order.

Conclusion

15. Even though the proposal would comply with Part 3 Class Q.2 (1)(a), (b) and (e) of the order, it would still fail to comply with Part 3 Class Q.1 (f)(i) of the order, which means it is not permitted development. For the reasons given, the appeal is therefore dismissed.

Liam Page

INSPECTOR