
Appeal Decision

Site visit made on 26 October 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2020

Appeal Ref: APP/R4408/W/20/3256166

Agricultural Building on Land off Hartcliffe Lane, Hillside, Thurlstone, Sheffield, South Yorkshire S36.

- 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 Mrs A Ridge against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref: 2020/0161, dated 7 February 2020, was refused by notice dated 6 April 2020.
 - The development proposed is change of use of agricultural building (GPDO Class Q) to a dwellinghouse (C3), and for associated operational development.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs A Ridge against Barnsley Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. I have taken the description of the development from the appeal form as this describes the development succinctly and I have determined the appeal accordingly.
4. There is no dispute that the proposal meets the requirements of paragraph Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) and therefore that it constitutes Permitted Development under Class Q, subject to the prior approval of certain matters. For permitted development under Class Q(a) and (b), namely a change of use from an agricultural building to a Class C3 dwelling house together with building operations reasonably necessary to convert the building, paragraph Q.2(2) of the GPDO requires prior approval of five matters. There is dispute between the parties as to whether the proposal satisfies the condition in Paragraph Q.2(1)(a) which relates to the transport and highways impacts of the development.

5. The appellant owns a garage and car parking space adjacent to the application site and considers that parking is not required within the curtilage of the proposed development. However, the garage and parking space are not part of the application area. The appellant has applied under Class Q prior approval to access the building via Hartcliffe Lane and this is the basis upon which I have considered the appeal.
6. S336(1) of the Town and Country Planning Act 1990 (the Act) provides that, for the purposes of the Act, 'highway' has the same meaning as in [s328] of the Highways Act 1980 (1980 Act). Section 328 of the 1980 Act provides that, for the purposes of that Act, 'highway' means the whole or any part of a highway other than a ferry or waterway. Common law has established that a highway is a defined route over which the public can pass and repass without hindrance or charge. The use must be "as of right", meaning without force, secrecy or permission. The public right to pass and repass as of right may be limited to a particular class of user or mode of transport.
7. I saw at my site visit that Hartcliffe Lane is signposted as a bridleway and I witnessed its use. As a bridleway the general public could use the lane 'as of right' and therefore I consider that Hartcliffe Lane is a highway.
8. Schedule 2, Part 3, Class Q, paragraph W5a and W5b of the GPDO requires, 'where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site' and the access is to a trunk road or a classified road or proposed highway, the relevant highway authority must be consulted. As the access is on to Hartcliffe Lane which is neither a trunk or classified road, it appears that there is no requirement to consult the highway authority. I do not agree that where such consultation is not required (because traffic is not onto a classified road or trunk road) material change in the character of traffic in the vicinity of the site would not occur; it simply does not trigger a need to consult the relevant highway authority.
9. Although the Council indicates that insufficient amenity space has been provided within the site the Council have refused the application based on the transport and highways impacts of the development. Concerns have not been raised in respect of any of the other conditions under Class Q, and the acceptability of the amount of amenity space is therefore not before me.

Main Issue

10. With the above points in mind, the main issue is whether the proposal would be acceptable in relation to transport and highways impacts with particular regard to parking and manoeuvring of vehicles.

Reasons

11. The appeal site consists of a small stone-built building, accessed from Hartcliffe Lane via an existing field gate. The evidence indicates that the building has a footprint of 25 square metres within a total area of 50 square metres.
12. Hartcliffe Lane is a largely unmade lane which rises significantly from its junction with Hillside Lane. It has no streetlighting and is a shared lane used as vehicular access to a small number of properties adjacent to it and by users of the bridleway. The lane is defined by stone boundary walls with narrow grass verges. The existing field gate into the appeal site is just after a bend where

the width of the lane narrows. Although limited, it appears to me that the area within the red line boundary of the appeal site would be sufficient to park a car. However, there is no evidence before me that it would be possible to turn a vehicle within the appeal site. Even if, as the appellant suggests, turning a vehicle within the wider field were possible this area is outside the appeal site. Therefore, it is likely that vehicles accessing the site would reverse on to Hartcliffe Lane. Further, vehicles accessing the proposed dwelling for deliveries and other visitors would almost certainly need to reverse along the lane or reverse out of the driveway.

13. The appellant considers Hartcliffe Lane is little more than a farm track with no particular destination and no formal designation, and therefore the question of entering and leaving the appeal site via Hartcliffe Lane has no material bearing on the 'character of traffic in the vicinity of the site' and the impact of the traffic should only be applied to classified roads.
14. However, the introduction of traffic movements without the necessary space to turn vehicles within the appeal site would result in vehicles associated with the development, including visitors and delivery vehicles, manoeuvring within Hartcliffe Lane. I consider that the dwelling would result in a material increase in the use of Hartcliffe Lane by vehicles and would increase the potential for conflict between bridleway users and vehicles due to the reversing and manoeuvring of vehicles within the lane. Consequently, its use would pose a safety risk to existing users of Hartcliffe Lane.
15. Therefore, overall, I conclude that the proposed conversion of the barn to form a dwelling would result in unacceptable transport and highways impacts with particular regard to parking and manoeuvring of vehicles on Hartcliffe Lane, which is identified as an issue for determination in paragraph Q.2(1)(a) of Part 3 of Schedule 2 of the General Permitted Development Order.

Other Matters

16. Regarding the broader question of 'interpretation' of words and meanings in legislation and policy I have had regard to the case law referred to by the appellant. This includes how interpretation is described¹ and the purposive approach² to interpretation which seeks to look for the purpose of the legislation before interpreting the words. I have also had regard to the appellants reference to the meaning of highway in the Cambridge English dictionary and the reference in this regard to case law on the interpretation of planning policy³. I have had regard to the case Law approach in considering the interpretation of GPDO and in considering whether Hartcliffe Lane is a highway. Overall, I do not find that the stated case law leads me to a different conclusion on these matters.
17. I have considered the prior approval appeal in Lancashire⁴. I do not have the details of the appeal building before me although I have been provided with a copy of the appeal decision. It appears to me that there were specific circumstances relating to a previous prior approval relevant to that appeal and the transport and highways impacts of the development were not before the

¹ Investors Compensation Scheme v West Bromwich Building Society [1998] 1 W.L.R. 896

² Chartbrook Ltd v Persimmon Homes Ltd [2009] UKHL 38; Mannai Investment Co Ltd v Eagle Star Life Assurance Co Ltd [1995] 1 WLR 1508; Rainy Sky SA v Kookmin Bank [2011] UKSC 50

³ Tesco Stores Ltd v Dundee City Council [2012] UKSC 13

⁴ APP/T2350/W/16/3150631

Inspector. The matters raised in that decision do not affect my conclusions here.

Conclusion

18. For the reasons given above the appeal is dismissed.

Diane Cragg

INSPECTOR