



Appeal Decision

Site visit not undertaken

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 February 2021

Appeal Ref: APP/D3125/W/20/3257529

Heythrop Hunt Yard, Kennels Lane, Chipping Norton, OX7 5YF

- 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 PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO).
 - The appeal is made by Mr White of THHK Ltd. against West Oxfordshire District Council.
 - The application Ref 20/01510/PN56, dated 6 June 2020, was refused by notice dated 29 July 2020.
 - The development proposed is change of use of an existing fallen stock processing facility to a single dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Planning Inspectorate initially arranged for this appeal to be determined following a site visit. The file was subsequently reviewed and on finding that the proposal cannot be considered permitted development because Class PA is time limited, it was no longer considered necessary to visit the site. I was able to consider the other aspects of the main issues on the basis of the submitted information.
3. For the same reasons, the appellant was given the opportunity to withdraw the appeal as the proposal cannot be considered permitted development.

Main Issues

4. The main issues are:
 - a) whether the change of use would represent permitted development under the provisions of the GPDO as set out in the banner heading above, and
 - b) whether the development would accord with the relevant local policies and national guidance with regard to land contamination.

Reasons

Change of use

5. The proposal is for the change of use of premises in light industrial use to a dwelling. The appellant has provided evidence to suggest that the premises operated separately from the stables and kennels, by providing a facility for the local farming community served by separate staff. I am therefore satisfied that the building was in a use separate from the other buildings at the site.

6. Additionally, it is suggested that the premises does not operate as an abattoir as no livestock is slaughtered at the site. However, in terms of whether the use is light industrial, the Council refer to a skip within the red line area, which it suggests is used to store animal bones. The regular delivery and removal of skips as well as the smell from stored animal bones would have the potential to be detrimental to the amenity of a residential area.
7. On this basis I cannot be satisfied that the use described accords with that set out in Class E(g) (which replaced Class B1(c) on 1 September 2020) as an industrial process which can be carried out in a residential area without detriment to its amenity.
8. The red line area includes a large area of land to the rear of the building, which would form the curtilage of the proposed dwelling. There is no evidence before me to suggest that this land is used for the processing of fallen stock. Accordingly, I cannot be satisfied that the proposed curtilage accords with paragraph PA.3(a) of the GPDO as land which serves the purposes of the building. Neither does the red line area accord with PA.3(b), as it is larger than the area occupied by the building.
9. Furthermore, Class PA of Part 3 of Schedule 2 of the GPDO is time limited and PA.1.(c) states that development is not permitted if the prior approval date falls on or after 1 October 2020. It follows that as my decision must be made in accordance with the legislation in force at the time, I must take into account that the proposal would not be permitted development.

Land contamination

10. Information relating to processes undertaken at the site is limited, and it is unclear how potentially contaminating material is stored. Even if I had concluded that the proposal met the criteria for permitted development under Class PA in all other respects, the limited information before me does not demonstrate that the site would not constitute a hazard arising from land contamination. The appeal statement notes that the Council made a request for a professional survey late in the determination process, and that if a realistic timescale had been given a survey could have been commissioned. However, there has been sufficient time since the Council's decision for a report to be commissioned.
11. I am therefore unable to conclude that the proposal would not give rise to hazards arising from contamination. Consequently I cannot be satisfied that the proposal accords with Policy EH8 of the West Oxfordshire Local Plan 2031 or paragraph 170 of the National Planning Policy Framework which together seek to ensure that development proposals must incorporate appropriate investigation into the quality of land, including any necessary mitigation.

Conclusion

12. For the reasons above, the appeal should be dismissed.

A Tucker

INSPECTOR