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# Appeal Decision

Site Visit made on 16 August 2021

**by E Brownless BA (Hons) Solicitor (non-practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: Friday, 20 August 2021**

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**Appeal Ref: APP/F2605/W/21/3270313**

**Herne Hill Farm, Herne Lane, Beeston, PE32 2NB**

- 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.
  - The appeal is made by Mr Guy Littleproud against the decision of Breckland Council.
  - The application Ref: 3PN/2020/0058/UC, dated 27 November 2020, was refused by notice dated 20 January 2021.
  - The development proposed is prior approval for conversion of an agricultural building to one dwelling.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. For the sake of clarity and brevity I have used the description of development from the Council's decision notice.
3. A revised National Planning Policy Framework (the Framework) was published on the 20 July 2021 and the parties have been provided an opportunity to comment on the implications of this for their case.
4. Reference is made by the appellant to alternative drawings. I have been provided with drawing number 20/229/01. However, on the basis of the evidence before me, it appears that this drawing was subsequently superseded during the application stage by drawing number 20/229/01 Rev B. The Council determined the application on the basis of drawing number 20/229/01 Rev B. I have therefore determined the appeal before me based upon this plan and on the individual planning merits of the appeal before me.

## Background and Main Issue

The application was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended (GPDO). Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order and any building operations reasonably necessary to convert the building. Prior approval for the change of use of an agricultural building to one dwelling was sought.

5. Paragraph Q1 of Schedule 2 of the GPDO sets out the circumstances in which development is not permitted by Class Q. The Council considered that the proposal would be permitted development against the criteria in Q.1, and I have no reason to disagree with that conclusion.

6. Paragraph Q.2 requires developers to apply to the local planning authority as to whether prior approval is required for a range of criteria. These include, (a) the transport and highways impact of the development; (b) noise impacts; (c) contamination risks; (d) flooding risks; (e) whether the location of siting of the building makes it otherwise impractical or undesirable for the building to change use; (f) design or external appearance; and (g) the provision of adequate natural light in all habitable rooms of the dwellinghouse. In terms of Class Q criteria (1) (a), (c) and (d), the proposed development would not give rise to any adverse issues.
7. The Council's case concerns the remaining criteria, and therefore, the main issue is whether the proposed development would comply with the conditions applicable to development permitted, having regard to Class Q of Schedule 2, Part 3 of the GPDO, in particular, noise impacts, location of siting, design and provision of adequate natural light in all habitable rooms.

## **Reasons**

### *Location of siting and noise*

8. Prior approval is required for the proposed development to establish if the location of siting of the building makes it impractical or undesirable for the change of use from agricultural use to a dwellinghouse. Further guidance on this point is given in the Planning Practice Guidance (PPG)<sup>1</sup> on what is meant by "impractical or undesirable". There is no statutory definition on these terms, but the PPG guidance is that "impractical reflects that the location of siting would not be sensible or realistic and undesirable can be taken to mean harmful or objectionable".
9. Furthermore, it provides examples as to what might be regarded as undesirable, however, the list is not exhaustive, it simply indicates that active farming can be an unsuitable neighbour for residential uses. The appeal building is located within a working farm in close proximity to an access with Herne Lane. A large open sided barn containing farming equipment, a tractor, supplies and livestock is positioned opposite the appeal building with an access way running in-between the two farm buildings. Extensive areas of hardstanding surround the appeal building with a farmhouse providing residential accommodation positioned a short distance away.
10. The proposed windows and doorway would overlook the open barn building and the entrance doorway would open towards the access driveway. Even if the adjacent farm building were to be demolished and removed, due to the location of the appeal building and the farming activities, including farm vehicular traffic and the use of hardstanding areas and the nearby farm buildings, this could have an adverse effect on the living conditions of future occupiers of the proposed dwelling with particular regards to noise, disturbance and odour and therefore the proposed change of use would be both impractical and undesirable in terms of its location of siting.
11. There is little evidence before me concerning the nature and scale of the farming operation that is undertaken. Whilst it would appear to be relatively low-key based upon my observations at the time of my site visit, there is no evidence before me to suggest that there is any restriction in place to control

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<sup>1</sup> PPG paragraph 109 Reference ID: 13-109-20150305

the extent of the farming operation. It is therefore possible that the type of farming on the surrounding land could change in the future and be considerably more intensive than it is at present. There is significant potential for unacceptable levels of noise and disturbance arising from the operation of machinery and day-to-day farming activity.

*Design and adequate natural light in habitable rooms*

12. The Council considers that the appeal building would provide substandard accommodation in terms of the lack of window openings at ground floor level and a reliance upon rooflights to provide natural light to the proposed bedrooms. The prior approval matters set out under Q.2(1) do not include 'amenity', however, the effect of a development on living conditions of future occupants may be relevant to the design and whether adequate natural light for the change of use to occur.
13. The GPDO was amended by the Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 so that, for any prior approval application made on or after 1 August 2020, the matters for a change of use to a dwelling under Part 3, Class Q include the provision of 'adequate natural light in all habitable rooms'.
14. The term 'habitable rooms' is defined in Part 3, as meaning 'any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms'.
15. The submitted drawings indicate that the bedrooms of the proposed dwelling would each be served solely by light from a rooflight. No ground floor openings are to be included. In the absence of any evidence demonstrating the level and adequacy of light likely to be received in these habitable rooms and taken together with their small size and position within the roof structure, I am not satisfied that the proposal would provide adequate natural light and would result in a poor design that would not provide a good standard of amenity for future occupiers.
16. Overall, taking everything into account, I find that the proposed development fails to comply with the criteria Q2(1)(b), (e), (f) and (g) of Class Q.

**Other Matters**

17. The appellant has drawn my attention to a structural report and works that would be undertaken to the appeal building including spray insulation. Reference has been made to case-law. However, the matters referred to are not in dispute. I have had regard to the appellant's email correspondence and I also accept that the proposal would provide an additional home and support the government's objective of economic growth. However, none of these matters lead me to a different decision to that which I have reached above.

**Conclusion**

18. I conclude that the proposal fails to comply with the conditions associated with Class Q of the GPDO. Therefore, the proposed development would not constitute permitted development and the appeal is dismissed.

*E Brownless* - INSPECTOR