



Appeal Decision

Site visit made on 18 August 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2021

Appeal Ref: APP/J3720/W/21/3272249

Ashford Barn, Ashford Lane, Hockley Heath B94 6RG

- 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 A Harvey against the decision of Stratford on Avon District Council.
 - The application Ref 21/00140/COUQ, dated 5 January 2021, was refused by notice dated 5 March 2021.
 - The development proposed is conversion of modern barn to residential use on adjacent land to owners residence.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended ('the GPDO') for the change of use of agricultural building into 1no dwelling including associated operational development under Class Q(b) at Ashford Barn, Ashford Lane, Hockley Heath B94 6RG in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2 (1) of the GPDO through application Ref 21/00140/COUQ, dated 5 January 2021. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of the GPDO and subject to the following additional conditions in the Schedule of Conditions to this decision.

Procedural Matters

2. The appeal submissions include two drawings showing red line boundaries. For clarification and based on the submissions made by the main parties it is clear that the extent of the 'curtilage' as defined under Class X of the GPDO is that shown on Drawing number:8147-100 Location Plan.
3. Since the appeal was lodged a revised version of the National Planning Policy Framework, 2021 has been released, the main parties have been consulted on this.
4. For the purposes of my Decision, I have used a description of development based on the local planning authority's decision notice as this accurately and concisely reflects what is before me.

Application for costs

5. An application for costs was made by Mr A Harvey against Stratford on Avon District Council. This application is the subject of a separate Decision.

Background and Main Issue

6. Class Q(a) of Part 3 of Schedule 2 of the GPDO permits the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order (as amended). Class Q(b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above. The local planning authority ('LPA') has found that the proposed development falls within the scope of Class Q(a) and Class Q(b), I have not found anything to dispute this.
7. Where development is proposed under Class Q(a) together with Class Q(b), and found to be permitted development, it is subject to the condition under paragraph Q.2(1) of Part 3 of Schedule 2 of the GPDO that before beginning the development, an application must be made to the LPA for a determination as to whether the prior approval will be required as to certain matters, as set out under paragraph Q.2(1).
8. In this case, the LPA contends that the Warwickshire Fire and Rescue Service ('Fire Service') have been unable to confirm that the site would be fully accessible to fire service vehicles. Accordingly, the LPA asserts that proposal fails the requirement of paragraph Q.2 (1)(e) of Part 3 of Schedule 2 of the GPDO which is, whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. The LPA has not raised any issues in relation to the prior approval of any of the other matters under paragraph Q.2 (1).
9. In light of the above, the main issue is whether the location of the building makes it otherwise impractical or undesirable for the building to be occupied as a dwellinghouse with regard to accessibility for fire service vehicles.

Reasons

10. The appeal site is within the open countryside and the building proposed for conversion is located off an existing access onto Ashford Lane.
11. The Fire Service require the development to provide satisfactory access for fire service vehicles. This requirement is based on the access requirements for Fire Service vehicles, as set out under Table 13.1 of the Approved Document B Volume 1. On the information available to me these requirements are guidance. Indeed, the Fire Service acknowledge that a building control body may, in consultation with the local fire and rescue service, use other dimensions.
12. The width of Ashford Lane is about 3m which falls short of the minimum requirement of 3.7m. However, a fire service appliance is 2.9m wide, so would be able to travel along the lane. In any event, this is an existing lane which serves a property further south of the appeal site, so there would be an existing requirement for the fire services to use the lane in the event of an

- emergency. The width of the gates of the access would be about 4m, which exceeds the minimum requirement of 3.1m.
13. With regard to the requirement for a turning area for fire service vehicles, the appellant argues that the requirement for a 16.8m turning circle is a kerb to kerb turning radius of 8.4m. I have nothing to dispute this. Indeed, diagram 1.13 of the of the Approved Document B Volume 1, shows a turning head and is annotated 'turning circle, hammer head or other point at which vehicle can turn'.
 14. Drawing: 23066-01-2, shows a proposed 8.4m turning area. The access to the site already exists and the appellant has confirmed that other than the land within the highway, he owns and has control over the land shown on drawing number 23066-01-2. Therefore, I see no reason why the alterations to the existing access could not be secured by a condition if the appeal were to succeed. Accordingly, a satisfactory turning point for a fire service vehicle is achievable.
 15. The LPA has accepted that the access to the site is suitable for a refuse vehicle, which is heavier and taller than a fire service appliance. On this basis, it would have sufficient carrying capacity and height clearance for a fire service appliance. As shown on Drawing 23066-01-2, the furthest point of the appeal building is 37m from the entrance to the site, which is closer than the minimum requirement of 45m.
 16. I am aware that an emergency incident could be a more complex event than a regular refuse collection, requiring the attendance of more than one fire service vehicle along with other emergency vehicles. Nevertheless, I have not been referred to any specific requirement for access arrangements to cater for such eventualities or to provide sufficient space for 360-degree access to the kit on a fire service vehicle.
 17. Drawing on the above reasons, the proposed access and turning arrangements would be satisfactory for a fire service vehicle. Therefore, the location of the building is suitable for a dwellinghouse having regard to Paragraph Q.2(1)(e) of Part 3 of Schedule 2 of the GPDO.

Conditions

18. Section W (13) of Part 3 of Schedule 2 of the GPDO allows for the grant of prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
19. I have specified the approved drawings and documents as this provides certainty. Conditions relating to the details of external materials and boundary treatments are necessary to ensure the satisfactory appearance of the development. Further conditions are necessary in respect of the investigation and remediation of any ground contamination in the interest of the health and safety of residents.
20. To ensure that the proposed dwelling has suitable access and turning arrangements for refuse and fire service vehicles, and that the works associated with this are of a satisfactory appearance, it is necessary to secure these by a condition.

21. The proposal relates to a modest sized building and the extent of the construction works required to facilitate the proposed change of use would be limited. This building is also located away from other dwellings and incorporates a sizeable open area in front of it, which could be utilised for the parking of vehicles and the delivery and storage of materials. Therefore, a condition requiring a Construction Management Plan is not necessary. Given that the extent of the 'curtilage' is shown on Drawing number:8147-100 Location Plan, a condition requiring the details of this is not necessary.
22. Conditions 2 and 3 which prevent any development approved from commencing until they have been complied with are considered fundamental to the development hereby approved. It is necessary for these to take the form of a 'pre-commencement' condition to have their intended effect. Where necessary and in the interests of clarity and precision, I have altered the LPAs suggested conditions to better reflect the relevant guidance.

Conclusion

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

M Aqbal

INSPECTOR

Schedule of Conditions

1. The development hereby approved shall be carried out in accordance with the following drawings and documents: Drawing number: 8147-100 Location Plan, Drawing number: 8147-200 Existing Block Plan, Drawing number 8147-201 Proposed Block Plan, Drawing number 8147-300 Existing Floor Plan & Elevations, Drawing number: 8147-301 Proposed Floor Plan & Elevations, Drawing number: 23066-01-2: Existing and proposed access arrangements; Ashford Barn Planning and Access Statement; Richard Strauss Structural Engineer Calculations for Ashford Barn and Richard Strauss Structural Engineer report for Ashford Barn conversion.
2. The development hereby permitted shall not commence until the detailed design, including surfacing and edging materials for the proposed access and turning area as shown on drawing number 23066-01-2 have been submitted to and agreed in writing by the local planning authority. The approved access and turning area shall be provided in accordance with the approved details, prior to the first occupation of the dwelling hereby approved. Thereafter, the access and turning area shall be retained for these purposes for the life of the development.
3. The development hereby permitted shall not commence until clauses (a), (b) and (c) have been complied with: (a) A Phase 1 Desk Study and site walkover has been carried out. The Desk Study shall provide results of the site walkover; detail a full history of the site uses; and identify any unacceptable risks to human health and the environment. The Desk Study shall be submitted to and approved in writing by the Local Planning Authority. (b) Where unacceptable risk is identified by the Desk Study, a detailed Site Investigation shall be carried out and a Site Investigation Report submitted to and approved in writing by the local planning authority. The Report shall detail all investigative works and sampling on site, together with results of analysis and risk assessment to any receptors. (c) Where unacceptable risk is identified by the Site Investigation Report, a proposed Remediation Strategy (including a Quality Assurance Scheme) shall be submitted to and approved in writing by the local planning authority. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.
4. Prior to occupation of the development hereby permitted, clauses (a), (b) and (c) shall be complied with: (a) All remediation work approved under the Remediation Strategy in Condition 3 above shall be completed as approved and be carried out under the Quality Assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works, contamination is encountered which has not previously been identified, the additional contamination shall be fully assessed, and an appropriate remediation scheme and timescales shall be submitted to and approved in writing by the local planning authority. (b) A Completion Report shall be submitted to and approved in writing by the local planning authority. The Completion Report shall include details of the remediation works and Quality Assurance certificates to verify that the works have been carried out in

full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included together with the necessary waste transfer documentation detailing the waste materials that have been removed from the site. (c) A certificate signed by the developer shall be submitted to the local planning authority confirming that the appropriate works have been undertaken as detailed in the Completion Report.

5. Prior to their installation, details of the external facing and roofing materials to be used in the construction of the dwelling hereby permitted shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved materials.
6. Prior to the first occupation of the dwelling hereby permitted, details of any proposed boundary treatments shall be submitted to and approved in writing by the local planning authority. Thereafter and prior to the first occupation of the development, the boundary treatments shall be installed in accordance with the approved details and retained in perpetuity.