
Appeal Decision

Site Visit made on 7 September 2021

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2021

Appeal Ref: APP/N2535/W/21/3275467

Bunkers Hill Farm, Bunkers Hill, Laughton, Gainsborough DN21 3EE

- 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 R Hammond (Hammond Farms) against the decision of West Lindsey District Council.
 - The application Ref 140575, dated 15 January 2020, was refused by notice dated 27 April 2021.
 - The development proposed is notification for prior approval for change of use from agricultural building to dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development in the banner heading above is taken from the appeal form and decision notice which accurately describe the proposal.

Main Issues

3. The main issues are:
 - whether the proposal satisfies the requirements of the (General Permitted Development) (England) Order 2015 (the GPDO) with regard to being permitted development for a change of use from an agricultural building to a dwellinghouse, having particular regard to the requirements of Class Q.1 (i); and
 - if so, whether the location of the agricultural building makes it impractical or undesirable for it to be used as a dwellinghouse in terms of its effect on the living conditions of future occupiers of the proposed dwellinghouse, having particular regard to noise and dust.

Reasons

Permitted development

4. Paragraph Q.1(i) of the GPDO identifies the extent of building works permitted under Class Q as being those reasonably necessary for the building to function as a dwellinghouse. These include, the installation or replacement of windows, doors, roofs, or exterior walls. The permitted development rights also include partial demolition, to the extent reasonably necessary to carry out such building operations.

5. National planning practice guidance (PPG) advises, amongst other things, that only those works reasonably necessary for the building to function as a dwellinghouse are permitted. Moreover, it says that it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
6. Both main parties have referred to the *Hibbitt*¹ judgment, which addresses the extent of what works can be considered reasonably necessary. In that case the judge advised that it was a matter of planning judgment in such cases whether the proposed works were reasonably necessary.
7. Based on the evidence provided and my observations on site, I am satisfied that the structural integrity of the building is sound and would form an integral part of the new dwelling. Although the roof would be refurbished with, amongst other things, new tiles, the building's core structural walls and trusses would be retained. These are characteristics which make the building capable of conversion to a residential use.
8. The proposed staircase enclosed by brickwork which would lead to a flood refuge room in the adjoining barn would be visible. However, the extent of physical external works would remain very small overall. Internal works are also proposed to facilitate this. However, the PPG states that internal works are not generally development and it may be appropriate to undertake internal structural works.
9. The works to create the refuge room are specifically required to mitigate flood risk which is reasonably necessary for this building to function as a dwellinghouse, given the site's location within the flood zone. As such my view is that this would be permitted under Class Q. Although a previous application did not include a flood refuge room, no consent was ever granted. Therefore this does not provide evidence that a flood refuge room would not be reasonably necessary for the building to function as a dwellinghouse.
10. Other works proposed including, amongst other things, the demolition of the small building to accommodate the amenity garden space and the new windows and doors would all be reasonably necessary for the building to function as a dwellinghouse.
11. I therefore find that the proposal satisfies the requirements of the GPDO with regard to being permitted development for a change of use from an agricultural building to a dwellinghouse, having particular regard to the requirements of Class Q.1 (i). The fact that the proposal is acceptable in terms of an assessment against all remaining criteria under Class Q.1 is not disputed and I am also satisfied that the proposal meets the appropriate qualifying criteria.

Whether the location of the building would be impractical or undesirable for use for a dwelling

12. For permitted development under Class Q, paragraph Q.2(1) of the GPDO requires prior approval of various matters. These include part (e) which requires consideration of whether the location or siting of the building would make it otherwise impractical or undesirable for the building to change to a Class C3 use.

¹ Hibbitt and another v Secretary of State for Communities and Local Government, Rushcliffe Borough Council [2016] EWHC 2853 (Admin).

13. The appeal building is located within an existing farmyard which includes a storage barn and two large cereal storage barns. Given the building's position, future occupiers could reasonably anticipate some activity associated with the farmyard, including intermittent noise and dust
14. However, during my site visit the two large cereal storage barns were in use with machinery in operation creating a loud constant noise which was clearly audible at the proposed dwelling. There is nothing before me to indicate the nature of this equipment, the noise levels generated, the periods of times of its operation, and particularly whether it operates constantly through the night. I am mindful that such an operation is likely to be during the summer months. During these warmer months future occupiers would more likely be reliant on open windows during the day and at night for ventilation and would spend more time in the garden. In such instances, the level of noise would, in my view, result in unacceptable living conditions for future occupiers.
15. I have considered the proposed agricultural occupancy condition as used in an appeal at Breach Hill Farm. The noise source in that instance related to a livestock building and I do not have full details of the circumstances of that case. Furthermore, the concerns raised regarding noise from the cereal storage barns would be detrimental to the living conditions of future occupants whether employed on the host farm, or another farming enterprise. As such, the proposed occupancy condition would not overcome my concerns.
16. The occupation of the proposed dwelling in connection with the farm enterprise would provide benefits to the farm including, amongst other things, on site security. However, full details of the nature of the farm operations and its requirements for an agricultural worker to live on site have not been provided. Moreover, the concern regarding noise and disturbance remains. As such, a more restrictive occupancy condition tying to the specific farm enterprise would not be reasonable in this instance.
17. Therefore, whilst there is nothing before me to indicate that dust nuisance would be a particular concern for future occupiers, I find that the location of the agricultural building makes it undesirable for it to be used as a dwellinghouse, in terms of its effect on the living conditions of future occupiers, having particular regard to noise. This would bring conflict with paragraph 130 of the National Planning Policy Framework (2021) which, amongst other things, seeks a high standard of amenity for future users.
18. The Council has also referred to part (b) of paragraph Q.2(1) in its reason for refusal. However, this relates to the noise impacts of the development itself. As my findings relate to the location of the building in relation to an existing noise source, I do not consider part (b) to be determinative in this instance.

Other Matters

19. The appellant also refers to a range of matters relating to the suitability of the conversion that are not at issue in this case. They do not weigh either for or against the appeal decision, nor do they assist in addressing the determinative issue in this case.
20. Concerns regarding the processing of the application and previous proposals are not issues that I can assess as part of this appeal.

Conclusion

21. In conclusion, the proposal would satisfy the requirements of the GPDO with regard to being permitted development for a change of use from an agricultural building to a dwellinghouse having particular regard to the requirements under Class Q.1 (i). However, the location of the agricultural building makes it undesirable for it to be used as a dwellinghouse in terms of its effect on the living conditions of future occupiers of the proposed dwellinghouse, having particular regard to noise. The absence of harm in relation to other matters does not alter or outweigh these findings.
22. For the reasons outlined above, the appeal is dismissed.

Mr R Walker

INSPECTOR