



Appeal Decision

Site visit made on 27 April 2021 by Thomas Courtney BA(Hons) MA

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2021

Appeal Ref: APP/J1915/W/21/3267689

Barn at Meesden Bury Farm, Meesden, Buntingford, SG9 0AY

- 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 & Mrs Wilfred Dimsdale against the decision of East Herts Council.
 - The application Ref 3/20/2083/ARPN, dated 22 October 2020, was refused by notice dated 18 December 2020.
 - The development proposed is a change of use of agricultural building to C3 (residential), to create three dwelling houses.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for a change of use from agricultural use to C3 (residential), to create three dwelling houses at Barn at Meesden Bury Farm, Meesden, Buntingford, SG9 0AY, in accordance with the application Ref 3/20/2083/ARPN, dated 22 October 2020, and the plans submitted with it. Development permitted under Class Q must be completed within a period of three years from the approval date above, as specified by Paragraph Q.2(3) of the GPDO, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: MH1085-01, 2.00/0920DIM, and 2.01/0920DIM.
 - 2) The development hereby permitted shall not begin until a scheme to deal with contamination of land has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing, and shall be implemented prior to occupation of the dwellings:
 1. A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011 Investigation of Potentially Contaminated Sites – Code of Practice.

2. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
3. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
4. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.
5. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. I note that there is some variation in the identification of the appellant between the planning application forms and appeal form. However, I am satisfied that the identification of Mr & Mrs Wilfred Dimsdale is acceptable in the context of the previous identification of the applicant as Cathy Dimsdale.
4. The Council has also simplified the description of development from that included within the application forms, which I note has been subsequently adopted by the appellants in the appeal form.
5. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Accordingly, the parties have been provided with a further opportunity to make submissions in respect of the publication. I have had regard to any comments which have been received in my consideration of the appeal.

Background and Main Issues

6. The National Planning Practice Guidance advises the starting premise for Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) is that the permitted development right grants planning permission, subject to the prior approval requirements.

7. The provisions of the GPDO require the local planning authorities to assess the proposed development in respect of transport, highways, and noise impacts of the development, and also the flooding and contamination risks on the site, and 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). It is also necessary to assess whether prior approval would be required regarding the design or external appearance of the building.
8. In respect of whether the agricultural building is capable of conversion to three dwellings, this must be assessed in accordance with the extent of works set out as permissible as defined in paragraph Q.1 of the GPDO. The Council has contended that insufficient information has been provided in order to establish the size of the agricultural unit, with the building the subject of this appeal having previously undergone alterations under the criteria of Class A(a) or Class B(a) of Part 6 (agricultural buildings and operations) of Schedule 2 of the GPDO. On this basis, the Council contends that the development would conflict with paragraph Q.1(g)(i) of Schedule 2, Part 3 of the GPDO.
9. As a consequence, the main issues are whether the agricultural building is capable of conversion to three dwellings in accordance with the extent of works set out as permissible as defined in paragraph Q.1 of the GPDO; and if permitted development, whether prior approval is required in relation to the conditions set out in paragraph Q.2 of the GPDO.

Reasons

10. The appeal relates to an existing barn set just to the west of a complex of working agricultural buildings. The building itself is set in the context of existing hardstanding immediately to the south with existing planting screening the structure from the road, and main farmyard. The building was observed as being used for the storage of agricultural equipment.
11. Paragraph Q.1 of the GPDO contains a list of exclusions as to when development would not be permitted under Class Q. In this respect, the Council has not identified conflict with any of the exclusions other than paragraph Q.1(g)(i). This paragraph sets out to establish whether development under Class A(a) or Class B(a) of Part 6 (agricultural buildings and operations) of Schedule 2 has been carried out on the established agricultural unit since 20th March 2013.
12. The Council contends that there is clear evidence of alterations to the building having taken place between 2015 and 2018, which given the claimed agricultural use of the building could only have been undertaken in accordance with the aforementioned Class(s) of Part 6 of the GPDO. In this regard, the appeal statement and submitted details of the extent of the agricultural unit quite clearly demonstrate that consideration would only be applicable under Class A of Part 6, given that the size of the unit exceeds 5 hectares.
13. I have carefully considered the Council's claims, but I note that the appellants have indicated that the recent works were to repair the building following a storm in 2017, with details of an insurance claim related to the event supplementing the appellants' evidence. This would appear to be consistent with my observations at the site visit and in the absence of any conclusive or compelling evidence submitted to support the Council's contention, I have no

reason to dispute the appellants' version of events. I am satisfied that the previous works of repair do not therefore constitute 'development' in terms of the accepted definition, with like for like repairs not altering the appearance of the building. Therefore, the works undertaken were not done so under Class A of Part 6 of the GPDO.

14. Turning to matters of prior approval as set out at paragraph Q.2, I note that the Council has not raised any objection to the provisions and conditions listed, and on the basis of the submitted evidence and my own observations I see no reason to disagree with that conclusion.

Conclusion and Conditions

15. For the reasons set out above, I conclude that the proposal satisfies the requirements of the GPDO for change of use from an agricultural building to 3 dwellings, as set out under Schedule 2, Part 3, Class Q, both with regard to being permitted development and also meeting the prior approval conditions. Therefore, the appeal should be allowed and prior approval is granted.
16. The GPDO requires at Part 3 paragraph W(12)(a) that the development shall be carried out in accordance with the details approved by the local planning authority. As paragraph Q.2(3) stipulates that development shall be completed within a period of three years, a condition is not required in this regard.
17. Paragraph W(13) of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. I have imposed a plans condition in the interests of certainty. I have also attached a condition related to the need for investigation over the potential for site contamination of the land, as a mean of minimising and preventing pollution.

Recommendation

18. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

Thomas Courtney

APPEAL PLANNING OFFICER

Conclusion

19. For the reasons given above, and having regard to all other matters raised, the appeal should be allowed subject to the conditions listed.

M Seaton

INSPECTOR