



Appeal Decision

Site visit made on 16 November 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2021

Appeal Ref: APP/E2734/W/21/3276799

**Park House, Station Lane, Burton Leonard, Harrogate, North Yorkshire
HG3 3RX**

- 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 Russell Hammond against the decision of Harrogate Borough Council.
 - The application Ref 21/00030/PBR, dated 3 November 2020, was refused by notice dated 12 March 2021.
 - The development proposed is the conversion of existing agricultural building to form 3 No dwellings at Park House.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (March 2021) (the Framework) has been published since the appeal was lodged. I am satisfied that the revisions to the Framework do not prejudice the positions of the parties in respect of the issues raised in this appeal, insofar as it is relevant to the development and prior approval matters, so it has not been necessary to seek further comments on this change.
3. The appeal proposal relates to an application submitted pursuant to Class Q(a) and (b) of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Class Q(a) 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. In addition, Class Q(b) permits building operations reasonably necessary to convert the building.

Main Issues

4. The main issues are:
 - whether the proposal constitutes permitted development, with particular regard to the extent of building operations required, the size of the curtilage of the dwellings and the existing use of the building; and
 - whether the proposal would provide suitable living conditions for future occupiers of the dwellings with regards to noise, disturbance and odour.

Reasons

Whether Permitted Development

5. Paragraph Q.1.(i) of the GPDO defines the building operations which can be undertaken. It states that development is not permitted if it would consist of building operations other than: (i) the installation or replacement of — (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
6. The term 'reasonably necessary' is not defined within the GPDO or Planning Practice Guidance (PPG) and this is a matter of judgement in each case. However, PPG does advise that the right assumes that the agricultural building is capable of functioning as a dwelling and that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, 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.
7. The building subject to the appeal includes three roof pitches but is open internally with no dividing walls. It is located in a central position within the larger complex of buildings, which includes several holiday cottages to the southwest and two larger detached agricultural buildings to the north east. The proposal would see the middle section of the building demolished to create two separate buildings to either side; one of which would host two dwellings while the other would be a larger single dwelling.
8. Due to the removal of the middle section of the existing building, both resulting buildings would require new walls to be built to those respective elevations, while the planning statement indicates all other walls for both buildings would be replaced. These are indicated on the proposed plans to be clad in metal profile sheeting. There are also new windows, doors and a new roof of metal panels required. As such, the existing building would be stripped back to its skeletal form, consisting of the steel frame.
9. I acknowledge that the nature of the works that would be undertaken to the building are listed in PPG and under section Q.1(i)(i)(aa) and (bb) as being permitted. While I understand the willingness of the appellant to agree to details regarding the colour of the cladding, due to the amount and scale of new building work when taken together set against what would remain of the existing structure, this would constitute a rebuild rather than a conversion to create three dwellings.
10. Furthermore, I note the further concerns of the Council with regards to the curtilages proposed for the dwellings. Paragraph X of Part 3 defines curtilage as; (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building; or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.

11. Of the proposed site plans submitted with the appeal, one version of reference 15973/05 showed the area around the proposed buildings marked by a new hedge which aligns with the red line boundary shown on the unreferenced site plan given at 1:1250 scale. The area of curtilage on both is not given, although 15973/05 was amended to show a smaller hatched area of curtilage which matches the floor area of the dwellings. However, this leaves large sections outside of the hatched area but within the red line boundary and the new hedge. My attention is drawn to an appeal decision¹ which states the car parking areas and access do not have to be within the curtilage, although I do not have substantive details of this before me.
12. To my mind, the parking areas indicated on the site plan outside of the hatched area but within the red line boundary would fall within a residential use included within Class C3. Moreover, whilst the entire area within the red line does not include all attributes associated with the residential conversion, such as the proposed areas of car parking, the area which would benefit from the permitted change of use to residential would still be considerably larger than the area occupied by the building itself.
13. The Council considers the proposal is contrary to section Q.1(a)(i) as the use of the building on 20 March 2013 was not agricultural. This is due to a change of use to light industrial (B1) permitted² in 1999. I have few details of this application, although the appellant states this was never implemented. I have no substantive evidence either way, although on the site visit, I observed there was machinery stored within this building, including a tractor, JCB, trailers and various other ancillary equipment. However, this is not unusual in an agricultural outbuilding and as such I have no reason to conclude that the appeal building was not in agricultural use on 20 March 2013.
14. For the reasons given above, the proposed development is not permitted under Class Q. As a result, there is no need to consider the further issues in terms of the criteria contained within Q.2(1) (a) to (f) inclusive of the GPDO, such as whether it is an impractical or undesirable location for a Class C3 use with regards to noise, disturbance and/or odour.

Other Matters

15. My attention is drawn to various applications approved by the Council which are similar to the appeal proposal. However, I have no substantive information on any of these and as such cannot be certain of their relevance to this appeal, which I have assessed on its own merits.

Conclusion

16. For the reasons set out above, and taking all other matters raised into account, I conclude that the proposal would not be permitted development under the provisions of Class Q and the appeal should be dismissed.

C McDonagh

INSPECTOR

¹ APP/T2350/W/16/3150631

² 99/01706/COU