



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: 24 February 2022

Appeal Ref: APP/J3720/W/21/3271707

Cross Leys Farm, Cross Leys, Ilmington CV36 4RT

- 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 Mrs T Rondel against the decision of Stratford on Avon District Council.
 - The application Ref 21/00086/COUQ, dated 23 December 2020, was refused by notice dated 1 March 2021.
 - The development proposed is prior approval application for the change of use of an agricultural building (Barn 2) into two smaller residential dwellings (C3) and one larger dwelling and associated operational development under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO).
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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 an agricultural building (Barn 2) into two smaller residential dwellings (C3) and one larger dwelling and associated operational development at Cross Leys Farm, Cross Leys, Ilmington CV36 4RT in accordance with application Ref 21/00086/COUQ, dated 23 December 2020. 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.

Preliminary Matter

2. For the purposes of my decision, I have used the description from the Council's decision, as this succinctly describes the proposal.

Background and Main Issue

3. Schedule 2, Part 3, Class Q of the (GPDO) sets out that development is classed as permitted development if it consists 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 building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of that Schedule.

4. This is subject to a number of situations where such development is not permitted, listed under paragraph Q.1, and, subject to compliance with conditions, as set out under paragraph Q.2. The Council has not raised any issues in respect of matters under Q.2. and I have no reason to take a different view.
5. In this case, the main dispute between the parties relates to the extent of the building operations, in particular the proposed demolition works.
6. Paragraph Q.1.(ii) places restrictions on 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).
7. Against that background the main issue is whether the extent of the proposed demolition works are reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i) of Schedule 2, Part 3, Class Q of the GPDO.

Reasons

8. The Planning Practice Guidance (the PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted.
9. Barn 2 is described as a steel portal grain store and includes a lean-to structure to the side of this. The proposal includes the demolition of the lean-to, which is a bolted-on addition to the existing building. In terms of its scale and floor space, the lean-to is ancillary to Barn 2, and because it is proposed for demolition, it is not required for the proposed conversion.
10. Moreover, the demolition of the lean-to would allow windows and doors to be installed along an existing wall of Barn 2. The proposed demolition of the lean-to would therefore facilitate a legible access/egress for the development through the proposed doors and the provision of adequate light and outlook via the new windows.
11. There is no definition in the legislation of 'partial'. In this case, the floor space of the lean-to to be demolished amounts to about 156m². This equates to near 31% of the total building. Most notably, the demolition of the lean-to would not compromise the capacity of the retained buildings to be converted into multiple units. The retained barn would remain fully enclosed on all four sides and therefore, the partial demolition would form part of a conversion of the building as opposed to a rebuild.
12. The Council have referred me to the Manor Farm, Luddington appeal (ref: APP/J3720/W/20/325364). In that case, the Inspector found that the substantial building operations including the demolition, two new elevations and roof and replacement of existing cladding 'cumulatively' went beyond the extent reasonably necessary to facilitate the conversion. Therefore, the scale of

works proposed in that appeal are not comparable to the scheme before me, which I have determined on its merits.

13. For the above reasons, the proposal would constitute partial demolition to the extent reasonably necessary to carry out the building operations allowed by paragraph Q.1(i)(i) Schedule 2, Part 3, Class Q of the GPDO. I conclude therefore, that it would meet the requirements of this part of the GDPO.

Conditions

14. 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.
15. I have specified the approved drawings 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. Conditions in respect of the investigation and remediation of any ground contamination are necessary in the interest of the health and safety of residents.
16. 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 existing 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.
17. The extent of the 'curtilage' for the proposed dwellings is shown on the Ground Floor Plan (Scale 1-100) on Drawing number 20-40-13, Revision 01, and is limited to the extent of the parking and garden areas external to the Barn 2. As such, a condition requiring the details of the curtilage is not necessary. Because the access to the appeal site from the highway is surfaced in a bound material, a condition requiring this is not necessary.
18. In the interests of highway safety, I have imposed a condition specifying that no site security fencing may be erected within 1m of public bridleway SS155.
19. Condition 2 which prevents any development approved from commencing until it has been complied with is considered fundamental to the development hereby approved. It is necessary for this to take the form of a 'pre-commencement' condition to have its 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

20. 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 drawing: Scheme Barn 2 Floor Plan - Drawing number 20-40-13, Revision 01.
2. 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.
3. 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 2 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.
4. Prior to their installation, details of the external facing and roofing materials to be used in the development 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.
5. Prior to the first occupation of the dwellings hereby permitted, details of any proposed boundary treatments (including fences and hedgerows) 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.

6. No site security fencing may be erected within 1m of public bridleway SS155.