



Appeal Decision

Site visit made on 20 September 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 28 September 2022

Appeal Ref: APP/C1760/W/22/3293641

Andover Lane Farm, Andover Road, Faberstown, Ludgershall SP11 9PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 and Mrs T Cook against the decision of Test Valley Borough Council.
 - The application Ref 21/03627/PDQN, dated 10 December 2021, was refused by notice dated 7 February 2022.
 - The development proposed is the Prior Notification of proposed change of use of 1 no. agricultural barn to a single dwellinghouse (Use Class C3) and associated building operations.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q(a) and Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the proposed change of use of 1 no. agricultural barn to a single dwellinghouse (Use Class C3) and associated building operations at Andover Lane Farm, Andover Road, Faberstown, Ludgershall SP11 9PE in accordance with the application Ref 21/03627/PDQN made on 10 December 2021, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q, paragraph Q2(1) and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved drawings: 200826-101 B (Location and Site Plan); 200826-102 C (Proposed Floor Plans); 200826-103 A (Proposed W&S Elevations); 200826-104 A (Proposed E&N Elevations); and Topographical Survey.
 - 2) In the event that contamination is found during demolition, conversion, construction or implementation of landscaping works, the presence of such contamination shall be reported in writing to the Local Planning Authority without delay, and development shall be suspended on the affected part of the site until a remediation scheme for dealing with that contamination has been approved by the Local Planning Authority. The approved remediation scheme shall be implemented as approved and, if requested, a verification report, for the purpose of certifying adherence to the approved remediation scheme, shall be submitted to the Local Planning Authority prior to the site being brought in to use.

Preliminary Matters

2. I have used the Council's description of development as this more succinctly describes the proposal.
3. The appellant has submitted a revised a site plan and floor plan (drawings 200826-101 B and 200826-102 C) as part of this appeal, to correct the size of the proposed curtilage to the appeal site. This is to overcome the Council's second reason for refusal, which concerned inconsistencies with regard to the area of land to be occupied by the agricultural building and the size of the proposed curtilage.
4. The changes to the plans are minor, and do not materially alter the substance of the proposal. Moreover, the Council has reviewed the updated plans and confirmed that they adequately address its second reason for refusal. On this basis, and in accordance with the principles set out in *Wheatcroft*¹, I am satisfied that I can accept the updated plans without prejudice to the main parties. I have therefore proceeded on this basis. In turn, I have not discussed the Council's second reason for refusal further.

Main Issue

5. In this context, the main issue is whether the development would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

6. Class Q permits development consisting of a change of use of an agricultural building to a dwelling. For development to be permitted under Class Q, building operations to facilitate the change of use are limited to "*the installation or replacement of windows, doors, roofs, exterior walls; or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse*". Planning Practice Guidance (PPG) goes on to say 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*". The PPG further notes that "*internal works are not generally development*".
7. In the present case, save for an element of a lean-to extension to the barn (which would be demolished as part of the development), almost the entirety of the existing structure would be retained. Indeed, the appellant's Structural Report² confirms that the existing walls, which comprise both concrete block work and steel sheeting, are in good order and capable of being converted to residential use, with only minor repairs being required to ensure the external fabric of the building is watertight. Both the roof and existing floor are also deemed capable of conversion. In turn, the building would be suitable for conversion to a dwelling, as envisaged by the provisions of the GPDO.
8. Given that the existing walls are not insulated, internal thermal lining walls are proposed, to ensure the new dwelling would meet the requirements of Building Regulations. Whilst the Structural Report indicates that the thermal lining walls

¹ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

² Current Structural Condition Report, Andrew Waring Associates, November 2020

would not be physically supported by the existing steel frame, they would nonetheless be inextricably linked to the built fabric of the existing wall structure, which would be retained. Given that agricultural buildings are commonly not insulated, such works would be a typical element of any conversion process, and therefore within the remit of conversion works foreseen by the GPDO. On this basis, I am satisfied that this element of the proposal would constitute works which are reasonably necessary for the building to function as a dwellinghouse, and would therefore be within the scope of building operations permitted under Class Q(b). Moreover, given that the thermal lining walls would be within the interior of the existing building, they would be internal works, and would therefore not be prohibited by Class Q in any event.

9. On this basis, I consider that the proposal would be development which is permitted under Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO.

Other Matters

10. The Council has indicated that the appeal site is within the catchment of the Solent Waters Special Protection Area (Solent SPA). Natural England advises that high levels of nitrogen and phosphorus input are causing eutrophication of the Solent SPA, which is partly attributed to wastewater from housing. In turn, any new housing development (including development permitted under the GPDO) risks further deterioration of the Solent SPA.
11. Under Regulation 75 of the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations), where permitted development is likely to have a significant effect on a European Site (such as the Solent SPA), whether alone or in combination with other projects, works may not begin until the developer has received written notification of the approval of the Local Planning Authority, pursuant to Regulation 77 of the Habitats Regulations. Whilst an opinion from a relevant nature conservation body (in this case Natural England) can be sought pursuant to Regulation 76 as to whether the development would likely have significant effect, it is understood that Natural England has already confirmed that all new residential development within the catchment of the Solent SPA will, cumulatively with other residential developments, have a significant effect upon the integrity of the Solent SPA. Notwithstanding the outcome of this appeal, the appellant should therefore be aware of their duties and obligations under the Regulations, before development can proceed.

Conditions

12. Pursuant to Schedule 2, Part 3, paragraph W of the GPDO, conditions can only be imposed to the extent that they reasonably relate to the subject matter of the prior approval. Under Class Q, such matters are limited to transport/highways, noise, contamination, flood risk, location, external design and provision of adequate natural light. Whilst the Council has suggested a number of conditions in the event of approval which relate to biodiversity enhancements, lighting, and ecology, these would go beyond the scope of the GPDO.
13. Nonetheless, as a submitted application document, the appellant will be required to comply with the measures set out in its Inspection Survey for Bat

Roost Potential³, including the proposed lighting strategy therein. It is also worth highlighting that bats are already afforded statutory protection under the Wildlife and Countryside Act 1981. As with the Habitats Regulations, the appellant should ensure they are aware of their responsibilities under this legislation as well.

14. As updated plans were submitted as part of this appeal, I have included a condition specifying the approved plans, to provide certainty over the development permitted. As suggested by the Council, I have also included a contamination condition, given the location of the development within a farm.

Conclusion

15. For the reasons given above, the proposal would be development permitted under Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO. The appeal should therefore be allowed and prior approval should be granted.

James Blackwell

INSPECTOR

³ Andover Lane Farm, Ludgershall, SP11 9PE, Inspection Survey for Bat Roost Potential, January 2021