



Appeal Decision

Site visit made on 19 October 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th December 2022

Appeal Ref: APP/L3815/W/22/3295815

Eartham Quarry, Eartham Lane, Eartham PO18 0FN

- 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, Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mark Well and Mrs Ellen Well against the decision of Chichester District Council.
 - The application ref: BX/21/03407/PA3Q, dated 19 November 2021, was refused by notice dated 13 January 2022.
 - The development proposed is the change of use of an agricultural building to 2 no. dwellinghouses (class C3).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has submitted an amended plan, 1447/DP04 Rev 2, to clarify the proposed curtilage of the appeal building. Although the local planning authority (LPA) state it has not seen it, the appellant has confirmed it was submitted to them. Notwithstanding this, it reduces the size of curtilage proposed in line with the permitted development requirements. I am, therefore, satisfied its acceptance would not prejudice any parties as it would have less impact than that previously considered.

Policy Position

3. Under Article 3(1) and Schedule 2, Part 3, Class Q(b), of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO)¹, development is permitted for the 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) together with building operations reasonably necessary to convert that building, subject to limitations and conditions.
4. The LPA may refuse the application where it considers that the proposed development does not comply with, or that the developer has provided insufficient information to enable the LPA to establish whether the proposed development complies with the conditions, limitations or restrictions set out in paragraph Q.1.
5. Where an application is made for prior approval for development which is allowed by paragraph Q.1, paragraph Q.2(1) provides that the LPA must

¹ All cited paragraph numbers, unless otherwise stated, are from Part 3 of the GPDO.

determine as to whether its prior approval is required as to a) transport and highways impacts; b) noise impacts; c) contamination risks; d) flooding risks; e) whether the location or siting of the buildings is otherwise impractical or undesirable for the building to change from agricultural use to dwellinghouses; f) the design and external appearance; g) the provision of adequate natural light; and the provisions of paragraph W.

Main Issues

6. The Council has refused the application in relation to the suitability of the appeal building for conversion, the amount of work required to convert said building, the inability to convert the proposed building, the size of the proposed curtilage and the level of detail relating to potential noise impact.
7. Therefore, the main issues are a) whether the proposed development would constitute permitted development in respect to Class Q(b) and paragraph Q.1; and if the proposal is found to constitute permitted development, b) whether the noise impacts on that proposed would be acceptable.

Reasons

Permitted development

8. Class Q(b) specifically relates to the building in question and any land within its curtilage. Paragraph X defines curtilage as the lesser of a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of that building, or b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by that building.
9. The main parties agree it is part b) which is relevant for the curtilage of that proposed, and the amended plan shows the amount of curtilage proposed to be no larger than the land occupied by the agricultural building. I have no reason to disagree and find the proposed curtilage would comply with paragraph X.
10. The Council queries the timings of when the appeal building was in use for agricultural purposes, however limited justification has been put forward to support this conclusion and it was not considered substantive enough to form a reason for refusal. Reviewing the evidence before and including my observations on site, I consider it likely that the agricultural use of the building, although not intense, was in accordance with the relevant timing clauses set out in paragraph Q.1. I am therefore satisfied that in respect of paragraph Q.1 the only issue is in relation to criteria Q.1(i).
11. The appeal building constitutes a steel framed structure set on a concrete slab. The building has some areas of infill brick work but in the main is clad in sheet metal on the walls, which is in a very poor state of repair, and corrugated cladding on the roof which appeared, by and large, reasonably watertight, and secure. The strength of the building comes from the steel frame and concrete slab with all external cladding hung from it.
12. The proposal is supported by a structural assessment by abmh, who undertook a visual inspection. It states that the steel frame and concrete base are in good visual order but recommends that the steel frame is treated to prevent corrosion. The proposal would also require the near complete replacement of all external finishes and alterations to many doors and windows.

13. Criteria Q.1(i) requires that any building operations including the installation or replacement of exterior walls, amongst other things, should be to the extent reasonably necessary for the building to function as a dwellinghouse. However as set out within the Planning Policy Guidance 'when is permission required?'² it clearly states that Class Q should be read with the assumption that the agricultural building is capable of functioning as a dwelling. In effect it is only when the existing building is already suitable for conversion to residential that the building would be considered to have this permitted development right.
14. With this in mind, and from visiting the site I do not find that the existing building is suitable for conversion in its current form and would require substantial replacement of exterior walls, windows, doors and potentially the roof, beyond that which could be considered reasonable.
15. For these reasons, I am unable to conclude that the proposal would comply with the limitations of paragraph Q.1(i). As such, the proposed development would not constitute permitted development in respect of Class Q(b).
16. As considerations in relation to prior approval are a follow-on condition stage under paragraph Q.2, it can therefore only apply if the development is otherwise permitted development. As the proposal would fail to constitute permitted development, there is no need to consider the issue pertaining to noise impact.

Other Matters

17. Due to the Chichester district's proximity to the Chichester and Pagham Special Protection Area (SPA), the LPA, as designated by Natural England, is a local authority which needs to act in relation to nutrient neutrality. It is also an area where recreational pressures on the SPA would need to be mitigated. The LPA have, however, confirmed the appeal site is located outside the zone of influence for the SPA, so these considerations are unlikely to apply.

Conclusion

18. For the reasons given above, I conclude that the appeal is dismissed.

RJ Redford

INSPECTOR

² Paragraph 105 reference ID: 13-105-20180615 Revision date: 15/06/2018