



Appeal Decision

Site visit made on 13 December 2022

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2022

Appeal Ref: APP/R4408/W/22/3297059

Land at the rear of 24 Common Road, Brierley, Barnsley S72 9ES

- 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 Davy Connor against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2021/1673, dated 10 December 2021, was refused by notice dated 10 February 2022.
 - The development proposed is change of use of agricultural building to dwellinghouse (Prior Approval).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. For the sake of clarity and brevity I have used the description of development from the Council's decision notice.

Main Issues

3. The main issues are whether the proposed development would comply with the requirements and conditions applicable to the development permitted, having regard to Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

Reasons

Permitted development requirements

4. At my site visit I observed two buildings, one being the appeal building, situated within a site enclosed by walls. There was an area of open land to the south west of the appeal building with some palettes of bricks situated. The appeal building was empty except for what appeared to be driving harnesses hanging on a wall.
5. The Council had granted prior approval¹ in 2014 at the appeal building for a change of use of agricultural storage barn to dwelling. This prior approval has now lapsed. In referring to the 2014 prior approval and the existing situation, the Council have indicated that it is questionable whether the site forms part of an established holding and has been used for agricultural purposes. In order to

¹ Local Planning Authority Reference Number: 2014/0958

allow prior approval in 2014, the Council must have been satisfied that the building was in agricultural use and therefore satisfied the requirements of Class Q, in particular paragraph Q.1(a).

6. Given my site visit observations, it is difficult to fully establish the use of the site. The appellant does state that the appeal building remains in agricultural use and there has been minimal evidence to confirm another use has been undertaken. The planning history is a material consideration, which I attach significant weight to in the determination of this appeal. The Council must have been satisfied that the building was at least in agricultural use on or before 20 March 2013 in order to grant prior approval in 2014.
7. There is no evidence before me which indicates an authorised change of use of the appeal building from agricultural to another use has occurred. I am therefore satisfied that the building was in an agricultural use on or before 20 March 2013 and that the building has not been used for another use for more than a 10-year period.
8. Accordingly, the proposal would comply with the requirements of paragraph Q.1(a) of Schedule 2, Part 3, Class Q of the GPDO.

Whether impractical or undesirable for building to change use

9. For permitted development under Class Q, paragraph Q.2 of the GPDO requires prior approval of six matters. These are (a) the transport and highways impacts of the development; (b) noise impacts; (c) contamination risks; (d) flooding risks; (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use and (f) design or external appearance.
10. In terms of criteria (a), (b), (c), (d) and (f), the Council have indicated that the proposal would not give rise to any adverse issues in relation to highway safety, noise, contamination, flooding and the external appearance of the building, and I have no reason to disagree with these findings. The Council have raised concern in relation to criteria (e).
11. The appeal building is detached however, it sits within close proximity to a large agricultural building to the north and a stable building to the north east. An area of open land within the boundary walls is located to the south west with open fields located to the south beyond the boundary wall. There are residential properties within the surrounding area and these have a greater detachment from the existing agricultural and stable buildings.
12. The appeal building is directly adjacent to buildings and areas where farming and equestrian activities can take place. It has been indicated that the surrounding uses are modest in scale and character. However, from the information before me there does not appear to be any restrictions on the existing buildings or agricultural operations and no controls to prevent the agricultural operations from intensifying.
13. There would be no new openings in the north or north east elevations with indications that specific insulation and glazing could be used to mitigate perceived noise. There are windows which directly overlook the area of land to the south west with the proposed curtilage area directly adjacent to this parcel of land to the south west. Given the location of the appeal building to the adjacent buildings and areas of land to the south and immediately to the south

west, which could include vehicle traffic going past the appeal building to the land to the south west, this could have adverse effects on the living conditions of future occupiers of the proposal with regards to odour and disturbance, as well as noise disturbance to proposed external amenity areas.

14. There have been no objections from the Council's Environmental Health Officers. However, from the evidence before me, I am not convinced that the living conditions of future occupiers of the proposed development would not be adversely affected in regard to noise, odour and disturbance, particularly as there is a possibility that farming operations can intensify. The location of the building being in close proximity to existing farm buildings and external areas would be undesirable.
15. I have had regard to the appellants statement of case including the adjacent stable building being within the applicants control and could be subject to Grampian conditions in relation to restricting uses. I consider that such conditions would not be relevant or provide sufficient restriction with other surrounding uses. The appellant also refers to the previous prior approval¹ and that the Council raised no objections in terms of criteria (e) of paragraph Q.2. There is insufficient evidence before me to suggest that buildings and operations surrounding the appeal building were the same when the previous prior approval¹ was determined, particularly with regards to proximity of agricultural buildings. In any case I have determined this appeal on its own merits.
16. I find that the location of the appeal building would make it undesirable for the building to change use to residential and the living conditions of future occupiers would be harmfully affected with regards to noise, odour and disturbance. Therefore, on this basis, the proposed development would not comply with the conditions of Class Q of Schedule 2, Part 3 of the GPDO.

Conclusion

17. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR