



Appeal Decision

Site visit made on 21 December 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Appeal Ref: APP/D2510/W/22/3295474

Cherry Tree Farm, Mill Lane, Addlethorpe, Skegness PE24 4TB

- 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 Paul Kindness against the decision of East Lindsey District Council.
 - The application Ref S/002/01233/21, dated 2 June 2021, was refused by notice dated 27 September 2021.
 - The development proposed is described as 'the conversion of two steel portal frame agricultural buildings on land at Cherry Tree Farm into five dwellings. Adequate natural light has been provided to all habitable rooms through the insertion of appropriately sized windows and glazed sliding doors; all sized to meet the requirements of the building regulations'.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The application includes details of both the change of use and the building operations necessary to convert the buildings. The Planning Practice Guidance (PPG) advises that the starting point is that the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO) grants planning permission subject to the prior approval requirements. The Council is satisfied that the appeal scheme meets the requirements of paragraph Q.1 of the GDPO. Based on the evidence before me, together with my observations of the buildings and their surroundings, I have no reason to disagree with this.
3. The evidence indicates that before the Council made its decision, there was agreement between the parties to extend the notification period. I proceed to determine the appeal on that basis.
4. The reason for refusal sets out there is insufficient evidence to demonstrate that the location or siting of the buildings would not be impractical or undesirable due to the effects of noise, odour and associated activity arising from the nearby poultry sheds.
5. The main issue is therefore whether the proposed development would benefit from permitted development rights under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to whether or not the proposal would meet the requirements of paragraph Q.2(1)(e) and paragraph W of the GPDO.

Reasons

6. The appeal site comprises two buildings each of a portal frame construction with blockwork and timber cladding walls and a sheet profile roof. They are adjacent to the existing farmhouse at Cherry Tree Farm. The Council has identified the appeal buildings are approximately 65m from a further group of six farm buildings, separated by an open field. Access to the farm buildings is taken from the road and track which lie next to the appeal buildings.
7. The information submitted with the appeal confirms that the six farm buildings have previously been in use as poultry units. While it is set out that these units are not currently in use and there are issues which may prevent them from being brought back into use, there is no planning reason that the use could not resume.
8. Paragraph W(9) of Schedule 2, Part 3 of the GPDO confirms that 'such information as the authority may reasonably require in order to determine the application' can be required from the developer. The parties are in dispute as to the need for further assessments. There is evidence before me of discussion between the parties regarding this, specifically of a 400m buffer zone from a livestock unit/ building and the information that was necessary to support another application within that distance of the site. Irrespective of the rationale for the 400m buffer, the Council's assessment of the appeal site as being 65m from the poultry sheds has not been disputed. This is a short distance, and there are no other buildings in such proximity. While the farmhouse itself is only a short distance further away and could be occupied as an independent dwelling, there is no evidence before me that has been the case. Even if it has, such circumstances would not of itself justify an unsuitable and unacceptable relationship between the poultry sheds and the proposed dwellings.
9. The appellant in seeking to support their position have drawn my attention to an application at Bowmans Business Park related to holiday lodges and associated development. However, the lodges in that case are controlled by condition which prevents their permanent occupation. This is a material difference from the use before me and as such does not lend support to the argument that noise and odour assessments would not be required in this case. Reference has also been made to applications S/023/00953/20 & N/088/01332/18, however I have not been provided with full details of the circumstances of those decisions.
10. The appellant has also submitted an appeal decision¹ to support their position. I do not have the full details of that appeal before me. However, it is clear from the decision that it relates to a cattle farm which the appellant acknowledges is materially different from this appeal. Further, it is not clear from the decision the exact relationship and distance between the existing agricultural buildings, existing dwellings, and proposed dwellings. It therefore does not provide compelling evidence that there would be no need for assessments in this case.
11. I note that the permission at Cherry Tree Farm for a poultry rearing house and a store granted on appeal² in 1998 was supported by an odour assessment. However, I have not been provided with a copy of that assessment. I therefore cannot be certain that it considered the effect on properties in such proximity

¹ APP/J1860/W/17/3179919 allowed 4 December 2017

² T/APP/D2510/A/98/295055/P5 allowed 6 August 1998

to the poultry sheds as the proposed dwellings would be. While there may not have been any complaints about the site since that time, this does not mean there would not be effects on dwellings sited in the proposed location.

12. Given the proximity of the proposed dwellings to the poultry units, I consider the poultry unit has the potential to give rise to levels of noise and odour which, along with the activity associated with the use, could have harmful effects on the living conditions of future occupiers of the proposed dwellings. The PPG³ acknowledges, "...the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings...". These are matters which could be properly addressed by appropriate noise and odour reports. I therefore consider there is insufficient information for me to properly assess the effects of noise, odour and associated activity. As such, I cannot establish whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from an agricultural use to a use falling within Use Class C3.
13. The proposal therefore does not benefit from permitted development rights based upon the evidence provided as it does not meet the requirements of paragraph Q.2(1)(e) and paragraph W of the GPDO, for which prior approval is required and cannot be granted in the particular circumstances of this case. On this basis, there is no need for me to consider the other prior approval matters as it would not alter the outcome of the appeal.

Other Matters

14. I note the comments of the appellant with regard to how the Council dealt with the application and the interactions with other Council departments. However, addressing these concerns does not fall within the remit of this appeal, so I have given them no weight in its determination.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR

³ When is permission required Paragraph: 109 Reference ID: 13-109-20150305 Revision date: 05 03 2015