



Appeal Decision

Site visit made on 28 March 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2023

Appeal Ref: APP/Z3825/W/22/3306617

Amiesmill Farm, Kerves Lane, Horsham RH13 6RL

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr N Francis against the decision of Horsham District Council.
 - The application Ref DC/22/0756, dated 12 April 2022, was refused by notice dated 6 June 2022.
 - The development proposed is conversion of an agricultural building to dwelling and associated buildings works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a signed statutory declaration with the appeal documentation in order to provide further clarification with regards to the Reason for Refusal No 1, which concerns the use of the building. In accordance with the 'Wheatcroft Principles'¹, this further information provides additional clarification to a main issue and does not result in changes to the scheme. Interested parties have had opportunity to comment on the appeal. I am therefore satisfied that my acceptance of this information would not prejudice any parties' interests. Accordingly, I have taken this into consideration.
3. The description of development set out above has been taken from the application form, but I have omitted parts of the stated description which do not relate to an act of development.

Main Issues

4. The main issues are:
 - Whether the proposed development falls within the terms of the permitted development rights having regard to Article 3, Schedule 2, Part 3, Class Q paragraph Q.1(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO); and
 - If so, whether the location or siting of the building would make it impractical or undesirable for the building to change to a dwellinghouse in terms of whether the proposal would provide satisfactory living

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

conditions for future occupiers with particular regard to noise, disturbance and odour.

Reasons

Whether the proposal would be permitted development – agricultural use

5. Paragraph Q.1(a) of Article 3, Schedule 2, Part 3, Class Q of the GPDO states that development is not permitted if *'the site was not used solely for an agricultural use as part of an established agricultural unit'* on the specified date. The Council considers that the 'site' includes equestrian activities and that this establishes a mixed use for agricultural and equestrian activities, and therefore the requirement for the site to be in a sole agricultural use is not met.
6. The GDPO refers to the sole use of 'the site' and it differentiates this from its use as part of an established agricultural unit. It cannot mean, therefore, that it is the latter (the agricultural unit) which must be in sole agricultural use. Sole use must refer to the application building.
7. The GDPO gives further clarity to the above when in paragraph X to Part 3 it says, *'site means the building and any land within its curtilage'*.
8. The details submitted with the appellant's statement includes a signed affidavit by a Chartered Surveyor and Agricultural Valuer familiar with the site to the effect that the building has been used continuously for agricultural purposes prior to January 2013 and continues to be so used. The details also include cattle movement records and passports and undated photographs. In this case, and as a matter of fact and degree, I am not persuaded that because a non-agricultural use (the equestrian business) is present in the ownership of the appellant that this means that the wider unit ceases to be an agricultural unit. Moreover, the submitted evidence seems to suggest that the building has, as a matter of fact and degree, been used solely for agriculture since that date. I have not been presented with any substantive evidence which would suggest otherwise and at the time of my site visit it was clear that the building was being used to store hay, tractors and machinery, including a bailer. As such, on balance of probabilities, I find that the appeal building was lawfully used solely for agriculture in connection with an agricultural unit on the specified date and its use has not materially changed since.
9. As such, for the reasons outlined above, in this respect, I consider that the building meets the requirements of paragraph Q.1(a).

Location and siting

10. There is no specific guidance on what constitutes 'impractical or undesirable' for the purposes of criterion (e) of Q.2(1), but the Planning Practice Guidance (PPG) provides some further information about considerations which might be relevant.
11. The PPG sets out that 'impractical' reflects that the location and siting would *'not be sensible or realistic'*, and 'undesirable' reflects that it would be *'harmful or objectionable'*. The example of a building on top of a hill with no road access, power source or other services is given as an instance where conversion may be considered impractical and the example of the location of a building adjacent to other uses such as intensive poultry farming buildings,

silage storage or buildings with dangerous machines or chemicals is given as an example of a case where conversion may be undesirable. Determining whether a location is undesirable calls for an exercise of planning judgement.

12. The appeal building is located in a predominately rural setting and close to an existing stable block and yard, which includes a DIY livery with access over the yard area to the north of the building. The proposed dwelling would have its living area at ground floor level with its pedestrian access from, and windows that directly overlook, the yard area to the north side. During my site visit I noted that the yard is used to store machinery and implements and, whilst there is an area of hardstanding to the west that would provide an element of vehicle parking, I noted that the stable building is accessed via the yard area.
13. I do not know the full extent of the existing equestrian activities including any associated comings and goings, hours of operation, the use of machinery and the use of the yard and access across the front of the appeal building. In any case, I have no substantive evidence before me to demonstrate that the equestrian use would not be noise intensive, either in terms of general operations through the level of people coming and going or from the equines themselves. As such, in my view, given the proximity, size, use and access to the stables there would be a high likelihood that future occupiers would experience objectionable disturbances such as noise and disturbance associated with adjacent stable buildings as well as the access to it, which would include levels of people, traffic and horses going past the appeal building.
14. From the evidence before me, I cannot be certain that any impacts could be appropriately mitigated. I am not therefore satisfied that future occupiers of the proposed development would not be adversely affected in regard to noise and disturbance, particularly as there is a DIY livery. The location of the building being in close proximity to the existing stable building would be undesirable and the proposed dwelling would be provided with unsatisfactory living conditions, despite the proposal for a workshop and garage within the eastern end of the building.
15. The appellant has provided examples of other dwellings in close proximity to equestrian buildings nearby. However, distance is not the only factor which influences this type of relationship, and it is evident that the stables at 2 Amiesmill Cottage are fewer in number and for personal use. Ultimately, each case must be assessed on its own individual merits, and the limited details I have of these other schemes does not aid the proposal to achieve compliance with the GPDO.
16. I have considered the proposed occupancy condition. The occupation of the proposed dwelling in connection with the equestrian enterprise would provide benefits to the business. However, full details of the nature of the equestrian operations and its requirement for a worker to live on site have not been provided. Moreover, the concern regarding noise and disturbance remains. As such, a more restrictive occupancy condition tying it to the specific equestrian enterprise would not be reasonable in this instance.
17. Whilst I note the appellant's intention that a family member would occupy the proposed dwelling, the concern regarding noise and disturbance would remain, and this is not a situation I can be certain will happen, nor could I rely on it not to change if it did. Additionally, there is no mechanism before me to control the

use of the stables and ensure its ownership remains with that of the proposed dwelling as has been suggested by the appellant.

18. Therefore, whilst there is nothing before me to indicate that odour nuisance would be a particular concern for future occupiers, I find that the location of the building makes it undesirable for it to be used as a dwellinghouse, in terms of its effect on the living conditions of future occupiers, having particular regard to noise and disturbance. This would bring conflict with paragraph 130 of the National Planning Policy Framework which, amongst other things, seeks a high standard of amenity for future users.

Other Matters

19. Having regard to the Habitat Regulations, on the evidence before me I am unable to rule out, in the first instance, likely significant effects on the integrity of the Arun Valley Special Area of Conservation, the Special Protection Area and Ramsar sites. However, as I am dismissing the appeal for other reasons given above, I have not pursued these matters further.
20. Concerns regarding the processing of the application are not issues that I can assess as part of this appeal.

Conclusion

21. Although the proposal would satisfy the requirements of the GPDO with regard to being permitted development for a change of use from an agricultural building to a dwellinghouse having particular regard to the requirements under Class Q.1(a), the location of the agricultural building makes it undesirable for it to be used as a dwellinghouse in terms of its effect on the living conditions of future occupiers of the proposed dwellinghouse, having particular regard to noise and disturbance.
22. For the reasons given above I conclude that the appeal should be dismissed.

J White

INSPECTOR