



Appeal Decision

Site visit made on 24 March 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2023

Appeal Ref: APP/N1025/W/22/3309586

Draycott Fields Farm, Hopwell Road, Draycott, Derbyshire DE72 3PE

- 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) Order 2015 (as amended) (GPDO).
 - The appeal is made by Mrs L Gratton against the decision of Erewash Borough Council.
 - The application Ref ERE/0722/0002, dated 30 June 2022, was refused by notice dated 14 September 2022.
 - The development proposed is the conversion of an agricultural building to one dwellinghouse (Use Class C3) and for associated operational development.
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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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of an agricultural building to one dwellinghouse (Use Class C3) and for associated operational development at Draycott Fields Farm, Hopwell Road, Draycott, Derbyshire DE72 3PE in accordance with the application ERE/0722/0002 dated 30 June 2022, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mrs L Gratton against Erewash Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. In the absence of a description of development on the application form, I have utilised part of the description from the appeal form and the Council's decision notice.
4. It is common ground between the main parties that the proposal accords with the criteria of Class Q.1. Class Q.2 requires the developer to apply to the local planning authority for a determination as to whether prior approval is required for certain matters, including whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Use Classes Order. The Council refused the application on this basis.

Main Issue

5. The main issue is whether the location or siting of the building would make it impractical or undesirable for it to change from an agricultural use to a use

falling within Class C3 (dwellinghouse) of the Use Classes Order, having regard to the living conditions of future occupiers.

Reasons

6. The appeal relates to the change of use of part of an agricultural building. It is situated in a rural area within a cluster of buildings, that includes an existing farmhouse. To the east, is a site which the appellant has identified as having been recently developed for a mix of uses, including residential use.
7. The partial change of use would result in part of the existing building being retained for agricultural use. Although this retained element would be the main agricultural building serving the holding, from the evidence before me, on the type, frequency and level of activities at the site, this would not be a large-scale farming enterprise. Despite the Council's concerns on the lack of control on the level of agricultural activity on the site, the size of the building that is to be retained in agricultural use, would limit the intensification that could occur.
8. The Planning Practice Guidance sets out examples¹ of what is undesirable, and this includes buildings with dangerous machines or chemicals. There are no such machines or chemicals stored currently in the building and no indication that this position would change in the future such that it could be a particular concern for future occupiers.
9. For the reasons given above, I conclude the location and siting would not make it impractical or undesirable for it to change from an agricultural use to a use falling within Class C3 (dwellinghouse) of the Use Classes Order having regard to the living conditions of future occupiers.

Other Matter

10. Reference has been made by the appellant to a number of appeal decisions. I am however required to assess the proposal on its own merits having regard to its location and siting. Having done so in this case, I have found the proposal to be acceptable for the reasons set out.

Conditions

11. Any change of use granted under Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO is subject to the condition Q.2(3) which specifies that the development shall be completed within a period of 3 years starting with the prior approval date. I shall impose a condition specifying the approved plans in the interests of certainty.
12. The Council has suggested a condition relating noise mitigation. Given the proposed residential use would adjoin a retained agricultural use in part of the same building, in the interests of the living conditions of future occupiers, I consider this condition to be reasonable and necessary. A condition is also necessary in relation to the provision of sufficient parking in order to avoid adverse transport and highways impacts. For the sake of clarity and enforceability, I have amended the wording of the suggested conditions as appropriate.
13. Although a condition has been suggested by a consultee relating to contamination, given the distance of the potential contamination sources that

¹ Paragraph: 109 Reference ID: 13-109-20150305

have been identified from the appeal site and the nature of the proposal which seeks to convert an existing building, I do not consider that such a condition is necessary in the interests of human health.

Conclusion

14. For the above reasons, I conclude that the appeal should be allowed.

F Rafiq

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (Drawing No: ACR-01-00-DR-A-01 Rev P01), Existing Ground Floor Plan (Drawing No: ACR-01-00-DR-A-02 Rev P01), Proposed Ground Floor Plan (Drawing No: ACR-01-00-DR-A-20 Rev P01.1), Proposed First Floor Plan (Drawing No: ACR-01-01-DR-A-21 Rev P01.1), Proposed Roof Plan (Drawing No: ACR-01-RF-DR-A-22 Rev P01), Existing South and West Elevations (Drawing No: ACR-01-ZZ-DR-A-05 Rev P01), Proposed South and West Elevations (Drawing No: ACR-01-ZZ-DR-A-30 Rev P01.1), Curtilage Plan (Drawing No: ACR-XX-RF-DR-A-62), Existing North and East Elevations (Drawing No: ACR-XX-ZZ-DR-A-07) and Proposed North and East Elevations (Drawing No: ACR-XX-ZZ-DR-A-31 Rev P01.1).
- 2) The use hereby approved shall not commence until a scheme for protecting the proposed residential use from noise from the adjoining agricultural use has been submitted to and approved in writing by the local planning authority. The scheme shall be prepared by a suitably qualified consultant or engineer and take into account the provisions of BS 8233:2014 'Guidance on Sound Insulation and Noise Reduction for Buildings'. All works which form part of the approved scheme shall be completed and a validation report detailing the noise mitigation measures that have been implemented shall be submitted to, and approved in writing by, the local planning authority before the approved development is first occupied. The approved scheme shall be retained thereafter for the lifetime of the development.
- 3) Prior to the first occupation of the use hereby approved, a plan showing the parking provision within the defined curtilage shall be submitted to and approved in writing by the local planning authority. The approved parking shall be implemented prior to the first occupation of the approved development and retained thereafter for the lifetime of the development.

End of Conditions