



Appeal Decision

Site visit made on 23 February 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2023

Appeal Ref: APP/W3520/W/22/3295602

Hill Farm, Huggins Lane, Stoke Ash IP23 7ER

- 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 R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
 - The appeal is made by Ms S Joslin of Hill Farm Partnership against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/06054, dated 4 November 2021, was refused by notice dated 23 December 2021.
 - The development proposed is, as described on the application form, change of use of agricultural barn to Dance Hall.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by Ms S Joslin of Hill Farm Partnership against Mid Suffolk District Council. This application is the subject of a separate Decision.

Preliminary and Procedural Matters

3. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force. Various classes, including D2 Assembly and Leisure were amended. The effect of the changes in relation to this appeal are that Dance Halls moved into the Sui Generis class. That is a class of its own.
4. However, paragraph 5 of the Schedule (the transitional and saving provision) to the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No 2) Order 2021 states the GPDO has effect in relation to protected development for determining appeal proceedings related to such an application. As such, given that the application was submitted prior to 31st July 2021, the previous use classes apply and the appeal should be considered on this basis.
5. GPDO Class R does not permit any operational development associated with the change of use. Thus, a subsequent planning application is required for associated operational development to enable the change of use of the building granted by Class R (defined in paragraph R.3 (4) as buildings or other operations which are 'reasonably necessary').

6. There is no requirement under Class R to submit details of the associated operational development, nor a specific two-stage process directly linked to the prior approval application. No associated planning permission has been approved in relation to this appeal scheme.

Background and Main Issues

7. The floor area of the building exceeds 150sqm. Development permitted by Class R is subject to the conditions in Paragraph R.3 which require that, where the floorspace exceeds 150sqm, the developer must apply to the local planning authority for a determination as to whether prior approval is required as to specified impacts before beginning the development.
8. The Council has not raised concerns relating to contamination risk or flooding, and based on the evidence before me, I find no reason to disagree. However, transportation/highways and noise impacts are also matters requiring prior approval, and the Council has refused to grant such approval.
9. The main issues therefore are whether or not prior approval should be granted, having regard to:
 - the transportation and highway impacts of the development and;
 - noise impacts of the development.

Reasons

Transportation and highway

10. The appeal building is accessed from Huggins Lane (the lane), which is a narrow single vehicle track leading from Roman Way to the west. The lane also serves Huggins Farm and Hill Farm Cottages, which are located before the access to Hill Farm some distance from Roman Way. Along the lane, the land is relatively flat, with agricultural fields adjacent to either side, albeit some sections closer to Roman Way have a ditch to either side. There is no street lighting or pavements along the lane.
11. On my site visit, I observed that the relatively flat topography of the surrounding area and users of the lane have good visibility, and it is lightly trafficked. I have not been provided with any technical evidence on the potential number of vehicles likely to access the appeal site to use the proposed Dance Hall, but a good indication is that 37 parking spaces are to be provided.
12. I note the Appellant's assertion that the proposal would be unlikely to cause two-way passage of cars, as attendees would be arriving and departing at the same time. However, there is no substantive evidence provided that this would be the case, or that such management of vehicle movements would take place. Furthermore, as identified by the Appellant, users of the Dance Hall could arrive by Taxi/minibus. It may also be that users of the facility would be dropped off by friends or family who may not wish to wait at it.
13. Given the distance from the junction at Roman Way up to Hill Farm, it is highly likely that vehicles visiting the appeal premises would meet other vehicles on the lane notably as there are other premises which use the lane and are outside the control of the Appellant. As there are presently no passing places, this would force road users to have to reverse to either Roman Way or Hill

Farm, which could be a long distance depending on where the vehicles meet on the lane. As a result, the reversing of motor vehicles would give rise to conflict with other motor vehicles, walkers, cyclists and horse riders. It would also have a severe impact on the free flow of traffic.

14. Additionally, the red line boundary of the appeal scheme is around the building. As such, there is no parking provision for future users. A failure to provide dedicated onsite parking could potentially lead to increased vehicle movements along the lane from users of the facility being dropped off and users parking their cars on the lane.
15. It has been indicated that a number of passing places could be created along the lane to address this issue and also that a dedicated parking area could be provided for the Dance Hall.
16. The provision of passing places would allow vehicles using the facility to pull into them and let another vehicle pass thereby mitigating the adverse effect the proposal would have on highway safety, and the provision of a car parking area for users of the facility to use would prevent vehicles parking within the lane causing an obstruction. Indeed, the Council Highways Officer is accepting of the proposal subject to conditions on an acceptable scheme to provide the passing places and parking.
17. However, the provision of such features comprise operational development and the provisions of Class R make it clear that it is only the change of use that is permitted development. Class R does not of itself sanction any associated operational development reasonably necessary to use the building or land for the use proposed under Class R, which would require a planning application.
18. In order to make the development acceptable in terms of its transportation and highway impacts such operational development would need to be undertaken, which does not fall within the scope of the development permitted by Class R. Without the passing bays and the car parking area the development would be harmful to highway safety.
19. The Appellant argues that it is within the powers of Paragraph W under Part 3 of the GPDO to attach a condition to allow for works outside the building as they are reasonably necessary. Class R does not permit any operational development; it is only concerned with the change of use. Paragraph R.3(3) of Part 3 of the GPDO provides that, where Planning Permission is granted for 'associated operational development' before the end of the period of 3 years starting with the prior approval date, then the change of use permitted under Class R must begin within the period of 3 years starting with the date that Planning Permission is granted. However, that does not alter the fact that express Planning Permission is still needed for the operations and is not given under Paragraph W.
20. For the reasons set out above, based upon the evidence before me, this proposal would result in harmful highway and transportation impacts that would be prejudicial to highway safety. Therefore, it should not be approved having regard to paragraph R.3(1)(b)(i) of the GPDO and prior approval is not granted in this regard. It would also be contrary to the National Planning Policy Framework (the Framework), in so far as it seeks new development to be safe and accessible.

Noise

21. The building subject of the appeal is an agricultural building sitting on a concrete base. The building has a prefabricated roof and incorporates blockwork at a lower level with a mix of timber cladding and corrugated sheeting to all elevations. Within the wider farm complex are a number of other agricultural buildings, the farmhouse, and holiday cottages. The nearest residential properties outside of the farm complex are located to the northwest at a distance of approximately 180m and are separated by an open field and a small band of trees.
22. The Appellant's evidence, including the accompanying Noise Assessment¹ confirms that the existing construction materials of the appeal building offer poor acoustic qualities. I have no compelling evidence before me to suggest that the noise assessment is inaccurate or otherwise misleading.
23. As a consequence, when events were taking place within the Dance Hall this would generate a high level of noise and disturbance for nearby occupiers. This resulting regular noise and disturbance would be particularly noticeable given the tranquil surroundings especially in the later evenings and at night. The proposed use would consequently generate greater noise and disturbance levels than are currently experienced by the occupiers of neighbouring dwellings, on a regular basis.
24. In order to provide adequate noise mitigation, the Noise Assessment confirms that the boarding to three internal walls of the building and an acoustically lined marquee would be required to achieve the required mitigation level. As I have already established, Class R does not permit operational development and there is no associated planning permission that demonstrates that the proposed measures are capable of being implemented on the appeal building.
25. As such, there is insufficient evidence that adequate noise mitigation can be provided, which is fundamental to the noise impacts of the development and protecting nearby noise-sensitive premises. Therefore, I am not satisfied that it would, in this case, be appropriate to attach a planning condition without evidence to demonstrate the appeal building is capable of achieving the required soundproofing levels to prevent noise and disturbance to nearby properties.
26. Notwithstanding the above, from the information before me, noise mitigation proposed through the zone speaker array system (array system) would unlikely be operational development. Therefore, a condition to ensure adequate sound mitigation from the array system as per the recommendations of the noise assessment to the Council's satisfaction could be inserted should the appeal be allowed. Furthermore, I also find that a condition would be acceptable to require a site-specific noise management plan to control noise associated with the change of use, such as hours of use. This would be acceptable in this instance as these matters are reasonably related to the subject matter of the prior approval as required by Paragraph W under Part 3 of the GPDO.
27. For the reasons set out above, based upon the evidence before me, this proposal would result in harmful noise impacts that would be unacceptable to nearby noise-sensitive premises. Therefore, it should not be approved having

¹ Sharps Redmore Noise Assessment dated 4 November 2021

regard to paragraph R.3(1)(b)(ii) of the GPDO and prior approval is not granted in this regard. The proposal would also fail to accord with the provisions of the Framework in so far as it relates to providing a high standard of amenity for existing users.

Other Matters

28. My attention has been drawn to an appeal² under Class R and a scheme granted consent³ by the Council. I have not been provided with the full details of the cases. However, from the evidence provided, I cannot be certain that a separate application for operational development was not granted by the Council or was even required that informed the Inspector or Council's Decision on these applications. Nevertheless, I have found that prior approval should not be granted for the reasons set out above.
29. There was a dispute with regard to the location of a nearby Public Right of Way (PRW). As this appeal relates to the change of use of the building, the dispute over the PRW is not a matter for my consideration. This is a matter between the Main Parties outside of this appeal.
30. Whilst the provision of electric vehicle charging has been put forward as a requirement, the installation of such infrastructure is not a requirement of Class R, nor is it reasonably related to the subject matter of the prior approval.

Conclusion

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

A Hickey

INSPECTOR

² Ref: APP/W0340/W/20/3258310

³ Ref: 2850/15