



Appeal Decision

Site visit made on 20 June 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2023

Appeal Ref: APP/Y3940/W/22/3311577

Barn at 16 Broad Town Road, Broad Town, Swindon SN4 7RB

- 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 Ms Fiona Bendall against the decision of Wiltshire Council.
 - The application Ref PL/2022/05413, dated 14 July 2022, was refused by notice dated 8 September 2022.
 - The development proposed is Conversion of Existing Building to Create 1no. New Dwelling.
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Decision

1. The appeal is allowed and prior approval is granted for Conversion of Existing Building to Create 1no. New Dwelling at Barn at 16 Broad Town Road, Broad Town, Swindon SN4 7RB in accordance with the terms of the application, Ref PL/2022/05413, dated 14 July 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following plans, drawings and documents:
 - Location Plan – LPC 5032 EX 01 A Rev. A
 - Site Plan – Proposed – LPC 5032 PR 01
 - Existing Plan & Elevations – LPC 5032 EX 02 Rev. A
 - Proposed Plan & Elevations – LPC 5032 PR 02 Rev. A
 - Structural Report by BTA Structural Design Ltd.
 - 2) No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.
 - 3) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

Application for costs

2. An application for costs was made by Ms Fiona Bendall against Wiltshire Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are whether the proposed change of use constitutes permitted development pursuant to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), having regard to:
 - whether the site was used for an agricultural use as part of an established agricultural unit; and
 - 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 Schedule to the Use Classes Order.

Reasons

Whether the site was used for an agricultural use

4. Class Q of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Use Classes Order and any building operations reasonably necessary to convert the building.
5. Paragraph Q.1.(a) 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 20th March 2013, or in the case of a building which was in use before that date but was not in use on that date, when it was last in use. Paragraph X of Part 3 of the GPDO defines an 'agricultural building' as a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business'.
6. The appellant purchased the barn in question in 2021 and at the time of my site visit, was not in use. Prior to their purchase, it was owned by Mr Bone, who purchased the land and the building in question in 1982. The evidence provided by the appellant establishes that Mr Bone kept a small number of goats, sheep, cows, and a pig on the land during the time that Mr Bone was the owner. It also proves that some chickens, ducks and geese were also kept on the land. A copy of Mr Bone's business card has also been included, as well as various licences and certificates associated with the keeping of the different animals on the appeal site. I note that the Rural Payments Agency confirms the site benefited from a registered agricultural holding number. The evidence shows that Mr Bone was using the land and building to raise animals in order to sell products such as wool, beef and eggs as part of a small business.
7. The trade carried out by Mr Bone may have only been a small enterprise. However, it isn't a matter of degree or scale, and I am satisfied that it was used for the purpose of a trade or business. Notably, the agricultural holding does not need to be the sole or main source of income for the user. Nor is it necessary to show that the agricultural trade or business is commercially viable. Therefore, on the balance of probability, the building in question would be considered as an agricultural building.
8. The Council's evidence and the comments of the third party that allege that the site was used for equestrian use is not sufficient for me, as a matter of fact and degree, to be convinced otherwise. Whilst the building may have originally

been built as a stable building, its last known use was for agriculture. Furthermore, I note that the agricultural use may have ceased in circa 2011. However, it has not been used for any other purposes since its last known agricultural use and has thus been dormant since Mr Bone stopped using it.

9. Therefore, I am satisfied that sufficient evidence has been provided to demonstrate that, on the balance of probability, the building was solely in agricultural use as part of an established agricultural unit. The proposal would meet the requirements of the GPDO under Class Q.1(a).

Whether location or siting of the building is impractical or undesirable

10. Paragraph condition Q.2(1)(e) of Class Q requires an assessment '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 Class C3 (Dwellinghouses) of the Schedule to the Use Classes Order'.
11. Paragraph 109 of the Planning Practice Guidance (PPG) states that 'impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would 'not be sensible or realistic', and undesirable reflects that it would be 'harmful or objectionable'. The PPG gives 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.
12. The Council's main concern relates to the lack of a suitable vehicle access. The proposed dwelling would be accessed via an existing vehicular access from Broad Town Road, which already serves the appeal site, as well as the neighbouring properties of 14 and 15 Broad Town Road. It is situated on a slight bend in the road. Due to the bend, the proposal would be unable to achieve the required minimum visibility splays.
13. In my view, whilst the proposal would not achieve the required visibility splays, this would not automatically make it 'impractical or undesirable'. The use of the existing vehicular access to serve the proposed dwelling does not lead me to conclude that the proposal would not be sensible or unrealistic. In reality, the access already serves 2 dwellings, as well as the existing agricultural building, so it wouldn't be impractical for it to be used for the proposed small dwelling.
14. The proposal would not materially intensify the use of the existing access and it would not result in a significant increase for the potential for conflict between road users. Whilst the type and number of movements that the proposal would attract would be different to its existing use, the residential movements associated with the proposed 1 bedroom dwelling would be modest. The proposal would not result in an unacceptable impact on highway safety nor would any impacts on the road network be severe. Consequently, the use of the access to serve the proposal would not be undesirable or impractical.
15. Whilst I note the concerns raised by a local resident regarding the access, and the allege near miss that the appellant had leaving the site, this is an existing situation. I also note the presence of the two mirrors opposite the existing

access. However, I do not consider that any additional vehicular movements associated with the proposal would exacerbate any existing highway safety issues.

16. I also note that there would be sufficient space on site to accommodate the required level of off-road parking and turning space.
17. For the reasons outlined above, the location or siting of the building would not make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. The proposals, therefore, comply with the provisions of Q.2(1)(e) of the GPDO.
18. The Council have cited Core Policies 60, 61 and 62 of the Wiltshire Core Strategy (adopted 2015) in the second reason for refusal. There is no statutory requirement to have regard to the development plan in the case of prior approvals. However, these policies do contain material that is relevant to the planning judgements to be made in respect of the main issue above. The proposal would be in accordance with the relevant parts of Core Policies 60, 61 and 62 which require development to provides a safe access to the highway network to allow for the safe movement of people. There would be no adverse impacts on the transport network, so no mitigating measures are necessary, as required by Core Policy 62.
19. It would also be in accordance with paragraphs 110 and 111 of the National Planning Policy Framework 2021 which states that development should ensure that a safe and suitable access to the site can be achieved for all users and that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Conditions

20. Paragraph Q.2(3) of the GPDO specifies that development under Class Q must be completed within a period of 3 years starting with the prior approval date, so it is not necessary or reasonable to impose a separate time limit condition.
21. Paragraph W (13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. To ensure certainty and clarity, it is necessary to impose a condition setting out the approved plans.
22. In the interests of the living conditions of the occupants of the neighbouring properties, a restriction on the construction hours is considered reasonable and necessary. A condition to ensure that any contamination not previously identified is adequately dealt with, in order to protect the living conditions of the future occupants, is also considered both reasonable and necessary.

Conclusion

23. For the reasons given above, the appeal is allowed and prior approval is granted.

Laura Cuthbert

INSPECTOR