



Appeal Decision

Site visit made on 3 October 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2023

Appeal Ref: APP/Y3940/W/23/3318343

Gorsey Leaze Farm, Honey Lane, Gorsey Leaze, Norton SN16 0JW

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr & Mrs Highman against the decision of Wiltshire Council.
- The application Ref PL/2022/05817, dated 28 July 2022, was refused by notice dated 15 September 2022.
- The development proposed is Prior Approval Application for the change of use of an agricultural building to one dwelling (Class Q) at Gorsey Leaze Farm, Honey Lane, Gorsey Leaze, Norton, Wiltshire, SN16 0JW.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended ('the GPDO') for Prior Approval Application for the change of use of an agricultural building to one dwelling (Class Q) at Gorsey Leaze Farm, Honey Lane, Gorsey Leaze, Norton, Wiltshire, SN16 0JW in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2 (1) of the GPDO through application Ref PL/2022/05817, dated 28 July 2022. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of the GPDO and subject to the following additional conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:2500 Scale Location Plan, drawing number JH-Highman-12 Location and Site Plan, and drawing number JH-Highman-11B Elevations and floor plan of proposed agricultural building conversions.
 - 2) 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.
 - 3) The occupation of the dwelling hereby approved shall be limited to a person solely or mainly working as a rural worker at Gorsey Leaze Farm, Honey Lane, Norton, Wiltshire, SN16 0JW, and to any resident dependants.

Background and Main Issue

2. The description of development in the heading above has been taken from the original planning application. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. Under Article 3(1) and Schedule 2, Part 3, Class Q, of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), development is permitted for the 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) together with building operations reasonably necessary to convert that building, subject to limitations and conditions.
4. The local planning authority (LPA) may refuse the application where it considers that the proposed development does not comply with, or that the developer has provided insufficient information to enable the LPA to establish whether the proposed development complies with the conditions, limitations or restrictions set out in paragraphs Q.1 and Q.2.
5. The application was refused on the basis that the proposal would not be permitted development, as it fails to meet the provisions of Paragraph Q.2(1) (b) and (e). These provide that development is permitted subject to the condition that before beginning the development, the developer apply to the local planning authority for a determination as to whether the prior approval will be required as to noise impacts from the development 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 of the Use Classes Order. The Council has not raised any issues in respect of Paragraph Q.1 and I have no reason to disagree.
6. On the basis of above, the main issue is whether the location or siting of the agricultural buildings make it otherwise impractical or undesirable for them to be used as a dwellinghouse in terms of its effect on the living conditions of future occupiers of the dwellinghouse with particular regard to odour and noise.

Main Issue

7. The two buildings forming part of the appeal are sited in very close proximity to the rear of other active large farm buildings. At the time of my site visit these other buildings contained a substantial amount of hay bales, farm paraphernalia and machinery.
8. There is no specific guidance on what constitutes 'impractical or undesirable' for the purposes of criterion (e) of Q.2, but the Planning Practice Guidance (PPG) provides some information about considerations which may be relevant.
9. 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. 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.

10. I have no evidence to suggest that any issues would be present in ensuring that the proposed dwelling had access to power and other services such to make conversion impractical.
11. With regard to undesirable living conditions, as a result of the dwelling being in very close proximity to a number of farm buildings with open sides, future occupiers of the dwelling could reasonably anticipate activity from the farm in very close proximity, including noise and odour impacts. Moreover, the location of the dwelling would be enclosed by the farm and its associated activities. Noise and odour impacts are likely to be worsened in warmer summer months when future occupiers would be likely to be reliant upon open windows and spend more time in the associated garden.
12. In addition, access to the property would be taken from the existing access through the associated yard between farm buildings. The presence of the yard/access in very close proximity to the proposed dwelling, whilst not impractical, would result in further potential for noise conflicts between occupiers of the dwelling and farm traffic and activity. Such conflict would be significant given the likely intensity of use of the farm buildings, yard and very close relationship to the dwelling with no intervening structures or screening.
13. The close relationship and associated noise and odour would result in unsatisfactory living conditions that would make it otherwise undesirable for the buildings to change to an unrestricted Class C3 use. However, it is particularly relevant in this instance that the appellant's are the owners of and work on the farm and are specifically seeking consent for a dwelling for their own occupation in the absence of other available dwellings. To demonstrate this, the appellant has put forward options for suggested wording for a condition to ensure their occupancy, or should I deem it reasonable and necessary, a legal agreement to achieve the same.
14. Although the proposed dwelling would be in very close proximity to the farm buildings and associated activity, occupation of the proposed dwelling by people working the farm would provide some control over the noise and odour sources and associated impacts. It would also remove any conflict with regard to the use of the access through the yard. Moreover, any noise and odour impacts would generally be created by the occupier(s) whilst working on the farm and not whilst they are occupying the dwelling. Given this, given that the appellant's own and work on the farm, and noting the size of the holding and lack of other available dwellings, occupation of the dwelling by a person(s) working the farm would overcome any undesirable noise and odour impacts.
15. Paragraph W(13) of Part 3 of the GPDO allows conditions to be imposed on the grant of any prior approval subject to the conditions being reasonably related to the subject matter. Although the PPG¹ states that factors such as whether a property is for a rural worker are unlikely to be relevant, there is nothing in the GPDO preventing the imposition of an agricultural occupancy condition. Given the circumstances of this case, as an agricultural occupancy condition would overcome concerns regarding the location or siting being undesirable and prevent the refusal of prior approval, such a condition is reasonable and

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

necessary. In light of this, I have not considered the UU and it is not determinative in the appeal.

16. I have had regard to the appeal decision² referenced by the Council where an Inspector concluded in that instance that the imposition of an occupancy condition would undermine the objectives of Class Q and be unreasonable. However, I note in that decision that conversion in order to house an agricultural worker was not sought to justify the proposal. As a result, that appeal decision is not comparable to the current appeal, and I am in any case required to consider the current appeal on its merits.
17. For the reasons outlined above, subject to an agricultural occupancy condition, the location or siting of the agricultural buildings would not make it otherwise impractical or undesirable for them to be used as a dwellinghouse in terms of its effect on the living conditions of future occupiers of the dwellinghouse with particular regard to odour and noise. The proposal, therefore, complies with the provisions of Q.2(1)(e) of the GPDO. It also complies with the National Planning Policy Framework that seeks to ensure a high standard of amenity for existing and proposed users.
18. The Council has also referred to part (b) of paragraph Q.2(1) in its reason for refusal. However, this relates to the noise impacts of the development itself. In light of the residential nature of the proposal and location a considerable distance from other dwellings in the countryside, the proposal would not in itself result in any harmful noise impacts. I do not therefore consider part (b) to be determinative in this instance.

Conditions

19. As stated above, the GPDO allows for the grant of prior approval subject to conditions reasonably related to the subject matter of the prior approval. I have considered the conditions suggested by the Council and appellant.
20. I have specified the approved drawings as this provides certainty. A condition in respect of the investigation and remediation of any ground contamination is necessary in the interest of the health and safety of residents.
21. In light of my findings above, a condition is reasonable and necessary to restrict the occupancy of the dwelling to a person solely or mainly working as a rural worker at Gorsey Leaze Farm. As occupation of the dwelling by a widow, widower or somebody last working in agriculture or forestry would not have control over noise and odour, their occupation would be undesirable. As such, I have used the wording of one of the conditions suggested by the appellant that does not make provision for their occupation. I have however removed reference to it being a temporary dwelling as this does not reflect the proposal.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

C Rose

INSPECTOR

² APP/W1850/W/15/3133678