



Appeal Decision

Site visit made on 21 November 2023

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2023

Appeal Ref: APP/N1025/W/23/3324140

**Agricultural Barn at Ridings Farm, The Ridings, Ockbrook, Derbyshire
DE72 3SF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Class R of Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Green 4 Master Ltd against the decision of Erewash Borough Council.
 - The application Ref ERE/0323/0058, dated 24 March 2023, was refused by notice dated 22 May 2023.
 - The development proposed is the change of use from agricultural barn and storage to light industrial use as a Technical Development Unit for lightweight steel frame building system.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Class R of Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO), allows the change of use of building and any land within its curtilage from an agricultural use to a flexible use. A flexible use includes uses falling within Classes B8 and C1 of schedule 1 and Class E of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO).
3. Class E of Schedule 2 includes at sub paragraph (g) use for (i) an office, (ii) the research and development of products or processes, or (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
4. The provisions of Part R of the GPDO are subject to conditions including, in the case of buildings that exceed 150 m², a requirement to apply to the local planning authority for a determination as to whether prior approval of the authority will be required as to certain matters. These include, amongst other matters, (i) transport and highway impacts and (ii) noise.
5. According to figures provided by the appellant the appeal building has a total floor area of 689 m², with the intention to use the front portion of the building, which extends to approximately 500 m², for a flexible use. The remainder of the building, comprising 189 m² would be retained as an agricultural store. Given the floor area involved the requirement to seek prior approval on the matters specified above is engaged.

Main Issues

6. The main parties dispute whether the proposal complies with the conditions, limitation and restrictions specified in Part 3 of the GPDO. The Council has also refused the proposal on the grounds of highway safety and noise impacts. Therefore, the main issues in this case are:
- whether the proposed development complies with the conditions, limitations or restrictions specified in Part 3, Class R of The Town and Country Planning (General Permitted Development) Order 2015 (as amended), and if so;
 - whether prior approval should be granted having regard to paragraphs R.3 (1)(b) (i) and (ii) of the GPDO with particular regard to the transport and highways and noise impacts of the development.

Reasons

Conditions, limitations and restrictions specified in Part 3 Class R of the GPDO.

7. The appellant's business is described as 'The G4 Master system' which produces machined steel structural components, on small-scale computer controlled machines for the construction industry. They indicate that the 'G4 Master system' machinery is built into a standard shipping container.
8. The appellant asserts that the building would be used as a Technical Development Unit (TDU) to support activities on or near development sites and would not be used for the manufacture and fabrication of rolled steel, as suggested by the Council and other interested parties. They indicate that the Transport Statement¹ submitted in support of their application presents a clear picture of what is proposed. This states that the appeal building would be used for the servicing and maintenance of the machines, for the installation of updates, upgrades, or technical improvements, and for research and development purposes to allow experimental fabrication of test pieces as new software or technical development of the system takes place.
9. Notwithstanding the above, the noise report², produced on behalf of the appellant, indicates that the "G4 Master Building System Technical Development Unit" will contain Scottsdale RF5-90 roll forming units, and they will be operated within the building. Furthermore, the noise report states that during operation, the roll forming units generate a continuous equivalent sound pressure level of 99 dB(A) at 1m, and the building would have the capacity to accommodate up to 10 no. roll forming units, albeit it is unlikely that 10 units will be in operation concurrently.
10. I accept that Class E of Schedule 2 allows research and development of products or processes, and certain industrial processes to be carried out at the appeal site. However, I am not persuaded that the activities described by the appellant could be carried out in 'any residential area' without detriment to the amenity of that area. This being a requirement of Class E.
11. In particular, I note from the noise report that noise levels in excess of 35 decibels would be registered, some distance from the appeal building, when the machines were in operation, with higher levels being heard close to. Therefore,

¹ Transport Statement by KMC Transport Planning March 2023

² Noise Impact Assessment by BWB Consulting dated March 2023

whilst accepting that this would only be during testing of the machines, or while experimental fabrication of test pieces was taking place, in my view this would not equate to a use that could be carried out in 'any residential area' without detriment to the amenity of that area. Furthermore, no indication has been given as to the regularity or duration of any testing activity, or the quantum of experimental fabrication that would be undertaken at the premises. Therefore, by definition the proposal would not fall within Class E.

12. In light of the above, I find the proposed development does not comply with the conditions, limitations or restrictions specified in Part 3, Class R of The Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Whether prior approval should be granted having particular regard to the transport and highways and noise impacts of the development.

13. Even if, I were to find that the proposed development complied with the conditions, limitations or restrictions specified in Part 3, Class R of The Town and Country Planning (General Permitted Development) Order 2015 (as amended), I would still be required to consider the impact of the proposed development with regards to, amongst other matters, highways and noise impacts.
14. Insofar as highway matters are concerned, I have taken into consideration the appellants transport statement. I have taken particular note of the comparison made between the traffic volumes arising from the existing and proposed uses, the access arrangements at the junction of the access track and The Ridings, and proposals to encourage sustainable transport means for staff who would visit the appeal premises.
15. I saw on my site visit that The Ridings was a narrow road with some on street parking. There was a modest level of traffic movements which correlates with that stated in the appellants transport statement. Traffic appeared to be moving with caution taking into consideration the presence of parked cars and road conditions. I accept that my observations only represented a snapshot in time, however I have no evidence to suggest that they are not representative of typical traffic conditions.
16. The appellant anticipates that at its peak, there would be 2 lorry movements (4 total two-way trips) per month in 2025, which would be similar to that associated with the existing agricultural use. The Council dispute this, asserting that the wider site would remain in agricultural use, and as a consequence the existing level of use would be added to, rather than replaced. In my view the scenario suggested by the Council is likely to be the case. That said the additional lorry movements generated by the proposed use would be limited and as a consequence the residual cumulative impact would not be severe.
17. Notwithstanding the above, I saw that visibility for drivers from the access track onto The Ridings, particularly in a northerly direction, was restricted by the building at 84 The Ridings. The main parties do not dispute that visibility, in this direction, falls below normally accepted standards. That said the appellant indicates that the addition of hatching at the junction would encourage exiting drivers to position their vehicles in a location that would maximise visibility. However, even with the addition of the hatching proposed the shortfall below

nationally accepted standards would be significant and would be likely to contribute towards an increase in accidents.

18. I have also taken into account the swept path analysis undertaken by the appellants and note that a vehicle of the size necessary to transport the container units, would occupy a significant proportion of the roads width. Any vehicles parked on The Ridings would considerably restrict vehicle movements. Accordingly, any additional vehicle movements along The Ridings, by commercial vehicles of the size proposed, would increase the likelihood of damage to vehicles, and reduce highway safety. Whilst I recognise that large agricultural vehicles would be similarly encumbered by parked vehicles this is more likely to be an established practice in the settlement and more readily accepted by local residents.
19. The introduction of sustainable forms of transport, including walking, cycling, public transport and the use of a staff mini bus to collect and transfer staff to the appeal premises is to be encouraged. That said, I am not persuaded that the proposals presented by the appellant represent a realistic option. In particular the proposal to establish a mini bus pick up point in a Dovecote Drive, a residential cul-de-sac located a short distance to the south, would involve operational development that is not permitted by Class R. Furthermore, it would be likely to result in amenity issues for the residents who live in Dovecote Drive. In the absence of a mechanism to monitor and control its use, it is likely that transportation of staff by mini bus would not be a viable long term option. In its absence it is likely that staff would resort to using the car as a preferred mode of transport, thereby increasing activity at a substandard access, and as a consequence highway safety would be further compromised.
20. Whilst I have concluded that the proposal would not fall within Part 3, Class R of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) I accept that the appeal buildings are located some distance from the nearest residential properties. Therefore, based on the working hours proposed, and the appellants evidence, it is likely that noise generated from within the building would not give rise to significant disturbance to nearby residents. This would be subject to the doors being kept closed and no further changes being made to the external appearance of the building. However, I have no substantive evidence before me regarding noise impacts arising from additional traffic movements. Consequently, I cannot conclude, with any certainty, that the proposal would not be harmful to the amenity of residents by reason of noise.

Other Matters

21. I note that representations were made by the Parish Council and local residents raising other issues. However, given my findings, it is not necessary to consider these matters in detail.

Conclusion

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

J Gunn
INSPECTOR