



Appeal Decision

Site visit made on 8 January 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2024

Appeal Ref: APP/C1760/W/23/3316872

Winacres Farm, Frenches Lane, East Wellow, Hampshire SO51 6FE

- 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 Dean Jarvis of Veda Homes against the decision of Test Valley Borough Council.
 - The application Ref 22/01645/PDQS, dated 22 June 2022, was refused by notice dated 18 August 2022.
 - The development proposed is described as the change of use of an agricultural building to a dwellinghouse (Use Class C3), and for building operations reasonably necessary for the conversion.
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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 change of use of 2 agricultural buildings to dwellinghouses (Use Class C3), and for building operations reasonably necessary for their conversion at Winacres Farm, Frenches Lane, East Wellow, Hampshire SO51 6FE in accordance with the application 22/01645/PDQS made on 22 June 2022, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q paragraph Q.2(3) and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 2105(PL)01 Revision P1; 2105(PL)10 Revision P1; 2105(PL)30 Revision P1; and 2105(PL)31 Revision P1.
 - 2) Prior to the installation of any external lights, details shall first be submitted to and approved in writing by the local planning authority. Installation shall then be carried out in accordance with the approved details.
 - 3) Any contamination that is found during development, including demolition, 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.

Procedural Matters

2. As the description of development on the application form only refers to a supporting document, I have used the description of development shown on the decision notice and the appeal form. It is also acknowledged that although the description refers to a singular agricultural building, all other evidence refers to 2 buildings, a Dutch barn, and an L shaped blockwork building. I have considered both buildings in this decision.
3. Under Article 3(1) and Schedule 2, Part 3, Class Q(b), of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO)¹, 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.
5. Where an application is made for prior approval for development which is allowed by paragraph Q.1, paragraph Q.2(1) provides that the LPA determine as to whether its prior approval is required in relation to a) transport and highways impacts; b) noise impacts; c) contamination risks; d) flooding risks; e) whether the location or siting of the buildings is otherwise impractical or undesirable for the building to change from agricultural use to dwellinghouses; f) the design and external appearance; g) the provision of adequate natural light; and the provisions of paragraph W.

Main Issues

6. The LPA, Test Valley Borough Council in this case, had refused the application in relation to the suitability of the appeal buildings for conversion, and their previous use, consequently their non-compliance with paragraph Q.1.
7. Hence, the main issues are whether the proposed development would constitute permitted development in respect to Class Q(b) and paragraph Q.1; and if the proposal is found to constitute permitted development, whether prior approval would be required as to paragraph Q.2(1).

Reasons

Paragraph Q.1

8. On review of the structural survey addendum² submitted by the appellant, the LPA agree that the proposal would be capable of complying with paragraph Q.1i). There is nothing before me to conclude otherwise.
9. It is, however, noted that although not part of the reasons for refusal, within the officer report, the LPA clearly does not consider the proposal to comply with

¹ All cited paragraph numbers, unless otherwise stated, are from Part 3 of the GPDO.

² Clarification Statement on Report No. SSS211049-CI-01 The Dutch Barn by Southern Structural Surveys Ltd, dated 17 February 2023

paragraph Q.1d). Therefore, the issue is whether the proposal would comply with paragraphs Q.1a), b), c) and d).

10. From the evidence submitted, it can be reasonably assumed that the appeal site originally formed part of an established agricultural unit. It is also clear from the evidence that Mr Humphreys and Ms Suter leased the agricultural unit informally from 2010. This was formalised by a tenancy agreement dated 10 January 2016, and that within a letter to the LPA dated September 2021 they still maintained that tenancy, albeit confirming the buildings in question were now surplus to their requirements.
11. Therefore, I am satisfied that although the buildings are no longer in regular use, as observed during my site visit, they do still form part of the established agricultural unit and so on these grounds would comply with paragraphs Q.1b), c) and d).
12. The need to be part of an established agricultural unit is also part of paragraph Q.1a) but this also requires the site to have been used solely for an agricultural use either i) on 20 March 2013, or ii) 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, or (iii) in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins.
13. In 2013 the agricultural unit was leased to Mr Humphreys and Ms Suter and they state they used the land to cut hay and graze sheep, and that the buildings were used within their farm operations.
14. It is acknowledged that interested parties state the buildings have been used for the housing of horses for purposes beyond that considered to be agricultural. The appellant has also gone to some lengths to discredit that assertion. However, from the limited evidence it would appear if such uses did take place, it was either prior to the tenancy of Mr Humphreys and Ms Suter and/or from 2014 for an unknown period.
15. Considering that Mr Humphreys and Ms Suter have submitted their evidence as a Statutory Declaration³, on the balance of probabilities it is plausible that on 20 March 2013 the buildings were used for agricultural purposes incidental to the farming operations undertaken by Mr Humphreys and Ms Suter. Accordingly, the proposal would comply with paragraph Q.1a).
16. The proposal would therefore constitute permitted development as set out in paragraph Q.1. Consequently, it is necessary to consider the proposal against the conditions of paragraph Q.2(1).

Paragraph Q.2(1)

17. There is no dispute between the main parties that the criteria of paragraph Q.2 are satisfied.
18. Nevertheless, interested parties have raised concerns relating to highways impacts, specifically the access onto Frenches Lane and an increase in traffic. However, there is no technical evidence to support these concerns and the Local Highway Authority has not raised any objection. It is also noted that the access onto Frenches Lane is already used by multiple residential properties.

³ The provisions of which are set out in the Statutory Declaration Act 1835.

Therefore, in accordance with paragraph 115 of the National Planning Policy Framework, I am satisfied the proposal would not have an unacceptable impact on highway safety or the road network and would not result in harm regarding paragraph Q.2(1)a).

19. It is also acknowledged that the residents of Dunster Cottage consider the proposal to impact their living conditions. However, the property is set on the opposite side of the access track, further away than the current nearest property, Dairyman's Cottage. The proposal would also only provide single storey living accommodation so would not create any additional overlooking beyond that which is capable from the site already. Consequently, I am satisfied the proposal would not be so harmful to the living conditions of the occupants of Dunster Cottage to constitute its location as undesirable regards to paragraph Q.2(1)e).
20. Consequently, the proposal would not cause harm in relations to the provisions of paragraph Q.2(1).

Other Matters

21. Matters relating to the validity of the information provided are noted. However, these do not alter my findings.
22. The potential impact of the proposal on the Solent and Southampton Water and New Forest Special Protection Areas is acknowledged. Nevertheless, prior approval cannot be withheld on this basis, and it would be necessary, prior to development commencing, that the appellant applies to the LPA under Regulation 77 of the Conservation of Habitats and Species Regulations 2017.

Conditions

23. Paragraph W(13) of the GPDO allows for the granting of prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Council has indicated that should prior approval be granted, conditions relating to external lighting, to safeguard bats in the area, and to potential site contamination, due to the previous use of the site, should be imposed as well as those subject to Class Q. I find no reason to conclude otherwise but have amended them slightly for clarity. I have also imposed a condition specifying the approved plans in the interest of certainty.

Conclusion

24. For the reasons given above, I find that the proposed change of use is permitted development under Class Q and as such, having considered all matters raised, the appeal is allowed, and prior approval is granted.

RJ Redford

INSPECTOR