



Appeal Decision

Site visit made on 20 February 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12th March 2024

Appeal Ref: APP/K0235/W/23/3327971

West End Farm, West End, Stagsden, Bedford MK43 8SZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 I Craig against the decision of Bedford Borough Council.
 - The application Ref is 23/00828/CPNQ.
 - The development proposed is the prior notification for the change of use of agricultural building to 1no. dwelling including associated building operations.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - Whether the proposed works would amount to partial demolition works to the extent reasonably necessary to carry out building operations allowed under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO); and
 - Whether the location or siting of the building would make it impractical or undesirable for it to change from agricultural use to a use falling within Class C3, with particular regard to noise.

Reasons

The proposed works

3. The appeal property comprises two main elements which combine to create one property. Firstly, a u-shaped range of attractive period brick-built courtyard buildings with a pantile roof. It is common ground that these buildings are capable of functioning as a dwelling and that any works including the installation of new windows and doors, brick infill areas along the eastern wall and other brick infill areas to facilitate the residential use would be reasonably necessary for the buildings to function as a dwellinghouse.
4. Secondly there is a more modern typical agriculture structure that has been built over the brick-built courtyard buildings which provides protection from the elements for the central courtyard area and for the buildings themselves.

5. The proposal would involve the removal of the modern agricultural structure and the retention of the attractive courtyard buildings. Although there are two elements, the two elements are an integral part of the same appeal property.
6. It is necessary to consider whether the removal of the modern agricultural structure would amount to partial demolition of the appeal property to the extent reasonably necessary to carry out the permitted building operations. Where the permitted building operations are to carry out the installation of windows, doors, roofs or exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse.
7. This is a rather unique set of circumstances due to the integration of two distinct elements to create the appeal property. Having considered relevant case law, I consider that the proposal to remove the modern agricultural structure would amount to partial demolition in accordance with the terms set out in the GPDO. I say that because the removal of the overarching modern agricultural structure is necessary to allow natural light to reach the proposed windows, particularly those facing into the internal courtyard. This is directly linked to the installation of the windows which themselves are reasonably necessary for the retained part of the appeal property to function as a dwellinghouse. As a result, it is reasonably necessary to partially demolish the appeal property in order to carry out the permitted building operations.
8. In reaching that view, I have taken account of the appeal decision at Chapel Allerton. However, that case is materially different as the decision makes clear that the demolition of the lean-to building would be total and not partial and would facilitate car parking and outdoor amenity rather than being directly linked to any permitted building operations. Consequently, I have determined this appeal on its own merits and this other case does not alter my view on this main issue.
9. I therefore conclude that the proposed works would amount to partial demolition works to the extent reasonably necessary to carry out building operations allowed under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Noise

10. Of particular relevance to this appeal is that there are existing agricultural uses near the appeal property including a large barn that is used for storage and which contains a grain dryer and also there is a separate grain storage silo. The appellant has prepared a noise assessment (the assessment) which I have taken into account in the determination of the appeal.
11. The grain silo is located directly to the east of the proposed dwelling. This has two noise sources. An elevator and a fan. In relation to the elevator, according to the assessment this would generate a noise level of 60dB LAeq,T (63dB LAmix) at the nearest façade of the appeal property. Although the closest part of the proposed development is the parking and storage areas, the proposed garden courtyard and master bedroom would also be in relatively close proximity. Although the assessment sets out that the noise levels in the garden courtyard and outside the master bedroom would be expected to be 50-55dB LAeq,T, there is little evidence to support those expected figures. As a result, and based on the available evidence I am not satisfied that I have been

- provided with adequate certainty that acceptable noise levels would be achieved within these areas. Further, I have not been provided with adequate details of what the noise levels would be within the proposed dwelling itself.
12. The assessment indicates that although audible to future residents this level of noise would be acceptable because the noise would only occur for approximately 15 hours a year, the noise would only occur during daytime hours, the proposed layout would represent a good acoustic design and it is not unreasonable to expect future residents to accept some occasional low-level noise from the farm operations.
 13. However, although the current operation of the farm may only result in 15 hours use per year during daytime hours, that situation could change if the operation of the farm changed. As a result, I am not satisfied that the existing situation can be relied on to justify the proposal. Further, as I have outlined, I am not satisfied that I have been provided with adequate certainty that acceptable noise levels could be achieved. In the event they are not, it is not reasonable to expect future residents to accept unacceptable noise from the farm operations.
 14. In relation to the fan, according to the assessment the measured noise level at ~2m near the closest eastern façade of the proposed dwelling was 87 dB LAeq,T (89dB LAm_{ax}). The fan blows air through the grain to help keep it dry while stored in the silo. The appellant indicates that the fan is typically required to run for about 10-15 days per year depending on the weather and would need to run up to 24 hours per day.
 15. The assessment accepts that the noise levels from the fan are very high and would undoubtedly result in significant disturbances to future residents especially during the night. I agree.
 16. The appellant has suggested some alternative actions to ameliorate the unacceptable disturbance that would be caused by the fan. They highlight that it could be replaced with a new quiet fan and acoustic enclosure, or a new acoustic enclosure could be added to the existing fan, or the fan and enclosure could be moved to a position away from the dwelling. However, even with these proposed mitigation measures, the assessment suggests a target noise criterion of 55 dB LAeq,T at the closest façade of the proposed dwelling. This they estimate would result in noise levels of around 45-50 dB LAeq,T in the garden courtyard and outside the master bedroom.
 17. However, bearing in mind there is a window serving the master bedroom facing towards the silo which may be opened during the night, the assessment has provided inadequate information about internal noise conditions. Consequently, based on the available evidence I am not satisfied that I have been provided with adequate certainty that acceptable noise levels would be achieved.
 18. Moreover, the assessment indicates that the estimated level of noise would be acceptable because the noise would only occur for approximately 10-15 days per year, the proposed layout would represent a good acoustic design and it is not unreasonable to expect future residents to accept some occasional low-level noise from the farm operations.
 19. However, similar to my observations above, although the current operation of the farm may only result in 10-15 days use of the fan per year, that situation

could change if the operation of the farm changed. As a result, I am not satisfied that the existing situation can be relied on to justify the proposal. Further, as I have outlined, I am not satisfied that I have been provided with adequate certainty that acceptable noise levels could be achieved. If they are not, it is not reasonable to expect future residents to accept unacceptable noise from the farm operations.

20. The appellant has suggested that a Grampian style condition could be attached to ensure the living conditions of future residents could be protected. As I understand the situation the proposed condition would involve land within the ownership of the appellant. As a result, it would not be a Grampian style condition. Nevertheless, I accept that if thought appropriate I could impose a pre-commencement or occupation condition.
21. However, having taken account of the relevant case law that has been brought to my attention, as I am not satisfied that I have been provided with adequate certainty that appropriate noise levels could be achieved, imposing a condition to ameliorate the identified noise issues would not be appropriate as any such condition would be speculative in nature and therefore would not be adequately precise. Similarly, there is not one definitive proposal to ameliorate the noise generated by the fan. Rather, there are a number of alternatives and again this would lead to imprecision in relation to any potential condition. That said, if I had been satisfied that acceptable living conditions would have been achieved, I would not have had any concerns about the impact the proposal would have had on the future operation of the farm.
22. I turn now to consider the grain dryer which is currently out of use and has not been used for 5 years as this process is now carried out off site at a separate facility. However, the noise assessment undertook a measurement to assess the noise implications if the dryer was required to run at any point in the future.
23. The measured levels were extremely loud, and the assessment found that the dryer would result in significant disturbances to future residents of the proposed new dwelling. Given that the assessment also acknowledged that there was no obvious practicable mitigation measures it set out that the grain dryer could not be used if the proposed development were to go ahead. The appellant has confirmed that they would accept such an operational restriction as they did not expect to use the dryer again in any event.
24. The appellant has again suggested a condition. I accept that the grain dryer is redundant and requiring its removal would not unacceptably impede the future operation of the farm. As a result, if in all other respects the proposal had been acceptable, I am satisfied that I could have imposed an appropriately worded condition to ensure that the grain dryer was permanently de-commissioned.
25. I have carefully considered the requirements of the GPDO and for the reasons set out above, I do not consider that the appellant has adequately demonstrated that the noise impacts generated by the fan and elevator associated with the grain silo could be adequately ameliorated to ensure that the proposed development would provide acceptable living conditions for future occupants.

26. I therefore conclude that the location or siting of the building would make it undesirable for it to change from agricultural use to a use falling within Class C3, with particular regard to noise.

Conclusion

27. For the reasons given above the appeal should be dismissed.

S Rawle

INSPECTOR