



Appeal Decision

Site visit made on 4 June 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2024

Appeal Ref: APP/B3410/W/23/3332618

Pumpfields Farm, Stubby Lane, Draycott in the Clay, Staffordshire DE6 5BU

- 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 Mrs Sheila Durose against the decision of East Staffordshire Borough Council.
 - The application Ref is P/2023/00714.
 - The development proposed is prior approval for the conversion of agricultural building to form a dwelling.
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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 2 Class 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for prior approval for the conversion of agricultural building to form a dwelling at Pumpfields Farm, Stubby Lane, Draycott in the Clay, Staffordshire DE6 5BU in accordance with the application P/2023/00714 and the details submitted with it. 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 conditions in the attached schedule.

Preliminary Matters

2. The Town and Country Planning (General Permitted Development) England (Amendment) Order 2024 (2024 Amendment) came into force on 21 May 2024. Transitional arrangements apply to applications submitted under the previous iteration of the Order. Therefore, the changes do not affect my consideration of this appeal. Consequently, I have not invited further comments from the parties. I have referred to paragraph and section references from the GPDO prior to these amendments.
3. Schedule 2, Part 3, Paragraph X of the GPDO defines 'curtilage' for the purposes of Class Q as: (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.
4. During the course of the planning application the Council requested the appellant to amend plans to include the proposed parking area and access within the curtilage. The appellant contended that the parking area and access

were not required to be within the curtilage area. The planning application was determined on that basis, and I have therefore determined the appeal disregarding the proposed parking and access area.

5. It is common ground between the main parties that the appeal scheme meets the requirements of paragraph Q.1 of Part 3, Schedule 2 of the GPDO such that it would constitute development permitted under Class Q, subject to the prior approval of certain matters. For permitted development under Class Q, prior approval is required in respect of a number of matters. These are (a) the transport and highways impacts of the development; (b) noise impacts; (c) contamination risks; (d) flooding risks; (e) 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) and (f) the design or external appearance of the building.
6. The matters in dispute are (e) 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) and (a) the transport and highways impacts of the development.

Main Issues

7. The main issues are:

- 1) 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, having regard to the living conditions of future occupiers with particular regard to:
 - the amount of private amenity space proposed;
 - noise, disturbance and odour;
 - vehicular access and car parking; and
- 2) the transport and highways impacts of the development.

Reasons

Whether the location and siting of the building would make it impractical or undesirable for a dwelling

Amenity space

8. The application site comprises a brick-built building, to the west of existing farm buildings at Pumpfields Farm. The building is small, with the submitted plans indicating that its footprint is 32.5m².
9. As detailed above, Schedule 2, Part 3, Paragraph X of the GPDO defines 'curtilage' for the purposes of Class Q as: (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser. The submitted plans show an area of private amenity space surrounding the proposed conversion, which would be 32.5m².

10. In this respect, the proposed amenity space would equate to the area that Paragraph X defines as curtilage land around the building. The proposed amenity space would be small, with a maximum depth of 3m. However, there is no requirement under Class Q for a proposed development to include a curtilage. It is for the applicant to decide whether to include a curtilage of any size, or at all. Whilst the GPDO specifies an upper limit for the land within the curtilage that can be subject to a change of use through Class Q, it does not specify a lower limit. Moreover, I have not been directed to any required size standards for amenity space. Whilst the proposed space would be small, the proposal is for a one-bedroom dwelling, rather than a larger house, and the amenity space would be appropriate in scale in relation to the small dwelling proposed. The amenity space would be functional and usable, with adequate space for activities such as sitting or dining outside and hanging washing. The space would be open, would benefit from sunlight, and would be easily accessible from the appeal building.
11. As such, I am satisfied that the location and siting of the building would not make it impractical or undesirable for a dwelling in this regard. Whilst reasonably modest, the amount of private amenity space would be adequate, and would ensure a high standard of amenity for future occupiers.

Noise, disturbance and odour

12. The building is located on a working farm, in a field to the west of existing farm buildings, and close to the western boundary of the farm. There are other residential properties along Stubby Lane. From my site visit, I observed that cattle were housed in the closest farm building to the proposal. The appellant has estimated this to be approximately 40m distant, and based on my assessment of both the submitted evidence and the position on the ground I have no reason to dispute this. Adjoining agricultural uses therefore include the presence of livestock and manure, along with the associated movements of agricultural vehicles. While I acknowledge that the agricultural operations on the land near the appeal site would cause some noise and disturbance, given the small size of the farm holding, moderate number of buildings and the limited amount of machinery I observed on the farm I consider the operations on it to be small scale.
13. The appellant has indicated that the cattle can be heard lowing when fed or handled, but are generally quiet. Furthermore, I noted that the opening to the nearby livestock building faced away from the appeal building, which is separated from the other farm buildings, being located in an adjoining field. The elevation of the livestock building which faces the appeal building is a solid rear wall which would help to mitigate noise from the livestock. From my visit, which I acknowledge was only a snapshot in time, I did not consider that the animals were noisy.
14. The appellant indicates that during the winter months mechanised foraging takes place twice a day, which results in noise from agricultural vehicles. Straw bedding is replaced weekly, and other noise generating activities such as pasture topping and muck spreading only occurs once or twice a year. Most of the noise from agricultural vehicles occurs within the farmyard, which is separate from the field where the appeal building is located. Furthermore, in rural areas such as this, rural activities and associated noise and disturbance is

commonplace, and any future residents would likely be alive to this possibility and individuals would make an informed choice as to whether to reside here.

15. A manure heap is located to the south of the livestock building, which the submitted evidence indicates is approximately 50m from the proposed dwelling. However, from my site visit I noticed that although the appeal site did have typical agricultural odours, the smell was not overly unpleasant or objectionable. Given the distance of the proposal from the manure heap, I consider that the living conditions of its occupiers would not be unacceptably harmed by intolerable levels of odours resulting from any farm activities undertaken on the other parts of the farm holding. With regards to noise, disturbance and odour, I consider that the location and siting of the building would not make it impractical or undesirable for a dwelling.

Vehicular access and parking

16. The wider farm is accessed via an existing vehicular access off Stubby Lane. The appeal building is situated within a field with no made vehicle access to it. As detailed in the Preliminary Matters section above, the appellant does not consider that the parking and access form part of the curtilage, and the Council determined the planning application on the basis that there is no provision proposed for access or car parking to serve the proposed dwelling.
17. I note from the submitted plans that a new short access track leading to the proposed dwelling from the existing farmyard could be created, along with two parking spaces on an existing concrete yard adjacent to the proposed dwelling. This lies outside of the curtilage proposed for outdoor amenity space referenced above. Nonetheless, those options would not make the change of use to a dwelling wholly impractical.
18. The Council consider that the development of the access track and parking spaces would lead to the size restrictions of the curtilage detailed in Paragraph X of Part 3 of the GPDO being exceeded.
19. However, there is no requirement in the GPDO for the curtilage of a proposed conversion to include dedicated parking provision, nor does Class Q include any restriction on development that does not explicitly provide a parking and/or turning area. Furthermore, there is no requirement under Class Q for a proposed development to include a curtilage at all. It is ultimately for the applicant to decide whether to include a curtilage of any size, or at all, in an application for prior approval. That being the case, it follows that an application need not show parking spaces or access from the nearest highway in order to be properly considered under Class Q. The plans submitted are clear in identifying the proposed curtilage which would be subject to the change of use.
20. For the reasons outlined above, the location or siting of the agricultural building would not make it otherwise impractical or undesirable for it 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 amenity space; noise, disturbance and odour; and access and parking. The proposal, therefore, complies with the provisions of Q.2(1)(e) of the GPDO.

Transport and highways

21. Concerns have been raised that the proposal would be detrimental to highway safety. There is not a continuous presence of street lighting on Stubby Lane

and whilst there is a pedestrian footpath on Stubby Lane in proximity to the site, this does not extend all the way to nearby villages. The road bends not far from the access point onto Stubby Lane. Stubby Lane is a fairly heavily trafficked road which has a 30mph speed limit.

22. From my observations when visiting the appeal site, I noted that where the pedestrian footpaths were not present, there were often grass verges and driveways which would allow for pedestrians to step off from the highway.
23. The farmyard provides space for vehicles to comfortably manoeuvre. There is room for cars to exit and enter Stubby Lane in forward gear. When exiting the site, due to the presence of the footpaths views of oncoming traffic are not restricted and vehicles and cyclists would not need to pull out into the road and disrupt the traffic flow in order to allow for safe visibility.
24. The road to the east of the access when exiting the site is relatively straight and open at this point. It would be possible for traffic approaching from this direction to see a vehicle or bicycle exiting the access point from some distance away. Likewise, vehicles and cyclists exiting the access point to turn left would be able to safely see gaps in traffic in order to exit safely.
25. When turning right from the access point, vehicles and cyclists would need to turn into oncoming traffic which would be emerging from the bend and as such views of oncoming traffic would not be as clear from this direction. Circumstances may therefore arise where cars exiting the bend may be forced to slow down. However, as the speed limit is 30mph, and the bend is likely to slow vehicles down somewhat at this point, I do not consider that the proposal would lead to a harmful impact on highway safety when exiting the site. Furthermore, the submitted plans indicate that appropriate visibility splays are achievable and can be provided via an attached planning condition.
26. My attention has been drawn to an appeal decision for residential development at Stubby Lane¹, in which the Inspector determined that the proposal would be materially harmful to highway safety, and the opportunity to seek refuge for people such as users of mobility scooters, people with mobility issues, blind or partially sighted people and people with prams would not be readily available due to the lack of a continuous footpath.
27. I am mindful that consistency in the planning process is important and like cases should be decided in a like manner. However, whilst it is inevitable for comparisons to be made, each will have its own specific circumstances and merits upon which it is considered. I note that this appeal related to a proposal for up to nine residential dwellings, comprising 2, 3, 4 and 5 bedroom dwellings which may have had a number of vulnerable road users, including the young and the elderly, as occupiers. The earlier appeal proposal would have had a different access point onto Stubby Lane than this appeal. Furthermore, at the time of the appeal the speed limit for this part of Stubby Lane was 40mph, this has now been reduced to 30mph. This appeal relates to a small one-bedroomed dwelling, which would not lead to as many vehicular, cycle or pedestrian movements as the development which was the subject of the earlier appeal. As such, I do not find the earlier appeal to be directly comparable to that which is before me.

¹ APP/B3410/W/18/3219064

28. As detailed above, I have not considered parking and access directly to the proposed dwelling from the farm track a part of this appeal. However, there is nothing before me to indicate that any parking spaces related to the proposed dwelling, or access to the proposal from the existing farm track situated off Stubby Lane, would impact highway safety.
29. Whilst the proposed dwelling would be likely to result in a net increase in vehicle movements, use of the access would not be significantly more than it is at present. Hence the effect of the proposal on highway safety would be relatively limited. In reaching this decision, I am mindful that the proposal is for a single dwelling.
30. I am satisfied that the scale and nature of the proposal means it would not lead to a demonstrable increase in vehicular movements which would exacerbate the conflict between vehicles, pedestrians and cyclists to such a degree as to be detrimental to highway safety. I conclude that the proposal would be acceptable with respect to matter (a) of Paragraph Q.2.(1).

Other Matters

31. I note third party concerns regarding sustainability, flooding and sewage. The purpose of Class Q of the GPDO is to increase the supply of housing through the conversion of agricultural buildings, which by definition will very frequently be in the open countryside. As such, the location of the development and its sustainability are not grounds in this instance to dismiss the appeal. There is no robust evidence to suggest the proposal would lead to issues relating to flooding or sewage, and the Council has not raised concern in this respect. My decision therefore does not turn on these matters.

Conditions

32. Section W (13) of Part 3 of Schedule 2 of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The parties considered that an agricultural workers occupancy condition would be appropriate, and it is the appellant's intention that the proposed dwelling be used by her son, who works on the farm. However, given my findings that the location or siting of the proposed dwelling house would not be impractical or unreasonable and would not cause harm to the living conditions of future occupiers, I do not consider that such a condition would be necessary.
33. The Council suggested conditions relating to the proposed access drive, turning facilities and parking facilities. However, as I have not considered these as part of the appeal, I have not imposed the suggested conditions.
34. Paragraph Q.2.(3) stipulates that development under Class Q must be completed within a period of three years from the approved date. Paragraph W(12) requires the development to be carried out in accordance with the approved details. I have therefore imposed a condition specifying the approved plans, in the interests of certainty.
35. A pre-commencement condition regarding drainage, to which the appellant has agreed, has been imposed in order to ensure that suitable drainage can be achieved. I have attached a condition relating to boundary treatments, in order to protect the character and appearance of the area. A condition relating to

visibility splays at the access entrance to Stubby Lane is necessary in the interest of highway safety.

36. I have attached a condition relating to contamination to ensure that the development can be carried out safely without unacceptable risks to workers, other receptors and that risks to future users of the site are minimised.

Conclusion

37. For the reasons given above I conclude that the appeal is allowed and prior approval granted.

L C Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan Rev 1 drawing 1.1 dated 4 July 2023 (except in respect of the parking area and access track shown on the Location Plan Rev 1)
 - Existing Block Plan Rev 1 drawing 2.1 dated 4 July 2023
 - Proposed Block Plan Rev 1 drawing 3.1 dated 4 July 2023 (except in respect of the parking area and access track shown on the Proposed Block Plan Rev 1)
 - Proposed Plans and Elevations Rev 2 drawing 5.2 dated 28 July 2023
 - Proposed Sections drawing 5.2 dated 16 June 2023
 - Access Plan drawing 6 dated 27 July 2023 (except in respect of the parking area and access track shown on the Access Plan).
- 2) No development shall take place until a detailed scheme for the disposal of foul and surface water has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the dwellinghouse hereby approved being first occupied.
- 3) Prior to the occupation of the dwelling hereby permitted details of the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed in accordance with the approved details before the development is occupied and retained thereafter.
- 4) The development shall not be occupied until visibility splays have been provided to the access entrance onto Stubby Lane in accordance with a scheme first submitted to and agreed in writing by the local planning authority. The visibility splays shall be free of any obstruction exceeding 0.6m in height and shall be retained as such thereafter.
- 5) Any contamination that is found during the course of construction of the development hereby permitted 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 until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

***** END OF SCHEDULE *****