



Appeal Decision

Site visit made on 8 July 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2024

Appeal Ref: APP/Y2430/W/24/3337817

Agricultural Barn at Tofts Hill, Stathern, Leicestershire LE14 4HU

- 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 Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Adrian Bell against the decision of Melton Borough Council.
 - The application Ref is 23/01027/GDOCOU, dated 2 November 2023, was refused by notice dated 22 December 2023.
 - The development proposed is change of use of agricultural barn to a single dwellinghouse (use class C3) and associated building operations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal proposal relates to a prior approval notification made under Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) ('the GPDO'). The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024 introduced alterations to Class Q of the GPDO, subject to transitional arrangements. As the application for prior approval was made before 21 May 2024 and relates to the former wording of Class Q, I have determined the appeal on that basis.
3. Since the appeal was made, the Council has refused to grant prior approval for a further proposal for a dwellinghouse at this site¹. I have afforded the main parties opportunity to comment upon the relevance of this to the case which is before me and address this matter further below.

Background and Main Issues

4. Under Article 3(1) and Schedule 2, Part 3, Class Q (a) and (b) of the GPDO planning permission is granted subject to certain limitations and conditions, for the change of use of agricultural buildings to dwellinghouses and building operations reasonably necessary to convert the building.
5. Paragraph Q2 of the GPDO states that where development under Class Q is proposed, that application should be made to the local planning authority for a determination as to whether prior approval of the authority will be required as to a number of factors.

¹ 24/00327/GDOCOU

6. The Council refused to grant prior approval for two reasons. The first related to whether the location or siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3, and the second related to whether the proposal would result in adverse impacts on highways and transportation.
7. Within its evidence, the Council has indicated that it is not seeking to defend the second reason for refusal, following receipt of comments from the Local Highway Authority. Stathern Parish Council made representations in relation to this, however as these appear to be related to potential conflicts between agricultural vehicles and future occupiers due to the location of the building, I have identified a single main issue.
8. The main issue is whether the proposal is permitted development under Schedule 2, Part 3, Class Q of the GPDO with particular regard to whether the location or siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3.

Reasons

9. Planning Practice Guidance ('PPG') states that a reasonable ordinary dictionary meaning to the definition of 'impractical' or 'undesirable' should be used when considering proposals under Class Q. It indicates that 'impractical' location and siting would "not be sensible or realistic", and that an 'undesirable' location or siting would be one which is "harmful or objectionable". The PPG also states that the starting point for consideration should be that the permitted development right grants planning permission subject to the prior approval requirements. The fact an agricultural building may be in a location where planning permission would not normally be granted is not a sufficient reason for refusing prior approval.
10. However, the PPG acknowledges that there may be circumstances where the impact cannot be mitigated, and that the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.
11. The appeal site comprises a building attached to a larger barn within a small collection of other buildings and associated land which are indicated as being within the control of the appellant. They are located on the northern side of a narrow road at the edge of Stathern.
12. The collection of buildings, which the appellant describes as a smallholding, comprises a large timber and corrugated metal barn, with the building subject to the appeal attached, along with a range of other smaller buildings located around a central yard area. At the time of my visit, it was evident from the arrangement of stock fencing and barriers, as well as the underfoot conditions that the large barn had been used in the recent past for housing livestock. I also saw the range of small buildings may also have been used for storing livestock at various times. The appeal building appeared to be in use solely for storage purposes. A number of bales were stacked in the central yard and I also saw that a tractor and trailer were also located within the wider area of land ownership.

13. It is not a matter of dispute between the main parties that the larger barn is used for accommodating cattle over the winter months. The building is large, and while I have not been provided with exact details of the scale of the livestock operation, it appeared capable of accommodating a herd of moderate size. The accommodation of cattle within the building would, inevitably, lead to the generation of both noise and odour.
14. The appeal building, if converted to residential use, would be attached to the larger barn. Although served by a separate door and with windows facing away from the central yard area, it would nevertheless have a particularly close relationship with the larger barn and any activity being undertaken inside it, as well as, given the compact arrangement of the buildings, any activity taking place within the central yard area.
15. In such circumstances, it is likely that future occupiers of the proposal would be subject to significant levels of both noise and odour from the use of the larger barn for the housing of livestock. While I agree that the level of harm that would result to the living conditions of future occupiers would potentially not be comparable to living adjacent to a poultry farm or silage storage, it would nevertheless be significant. Furthermore, situations adjacent to which it may be undesirable to locate a dwelling under Class Q are not restricted to the uses cited within PPG, which are examples rather than a closed list.
16. Furthermore, the door of the dwelling would open directly into the yard, close to the open frontage of the largest barn. Given the yard is relatively small and enclosed in nature, conflict would therefore be possible between future occupiers leaving the dwelling and any manoeuvring farm vehicles. While I accept that the size of the yard and scale of the farming operation would indicate that vehicular movements would be relatively low and potentially infrequent, nevertheless it would be expected with any agricultural operation that would be some element of vehicular activity and therefore potential for conflict.
17. Taking these factors together, and while I acknowledge that there may be some reasonable expectation of noise, smells and activity where residential premises are located close to agricultural operations, the location of the appeal building and the compact arrangement of buildings around the yard means that its conversion to a dwellinghouse would nevertheless be undesirable.
18. In reaching this conclusion I have had regard to the appeal decisions cited by the appellant. I have been provided with only limited details in relation to the schemes that these decisions related to, however it is stated within one² decision that the proposed dwellings would back onto a farmyard and would present blank elevations to the working yard. In contrast, the proposal before me would be materially different as it would incorporate a door opening directly into the working yard and directly adjacent to the opening of the larger barn.
19. In relation to the second decision³, the Council has indicated, and it has not been disputed, that the farm buildings referred to by that Inspector were located between 100 and 350 metres from the proposal. Again, this is a materially different situation to that which is before me. Overall, neither of

² APP/D3505/W/20/3254460

³ APP/L3245/W/21/3269754

these decisions leads me to conclude that the proposed arrangement would not be harmful.

20. It is also put to me that planning conditions could be used to either restrict the use of nearby buildings to storage of machinery, straw and stock feed only, or to prevent the use of buildings for agricultural purposes altogether. I am aware that an arrangement to restrict the use of buildings close to a proposed dwelling by means of a planning condition has been previously found acceptable by another Inspector⁴.
21. However, even if I was to agree that there was scope for such an approach, the conditions which have been suggested rely upon identifying the relevant buildings by means of green shading on a plan which is not identified, nor do any of the drawings before me include green shading. Without certainty in relation to which buildings such conditions would apply to, I cannot be certain that they would overcome the harm that I have found. Nor would they be sufficiently precise, and they would therefore fail to meet the relevant tests for conditions set out in the Framework and PPG, in any event.
22. For these reasons, I conclude that the location and siting of the building makes it undesirable for the proposed change of use to a dwellinghouse, as set out at Schedule 2, Part 3, Class Q.2(1)(e) of the GPDO.

Other Matters

23. The appellant has expressed concern and frustration with the Council's handling of the prior approval application and the previous planning history at the site. However, these are not matters that fall within the scope of the appeal, which I have determined on its planning merits.
24. Although I have had regard to the most recent decision made by the Council in relation to this site, that proposal appeared to differ from that before me as it included partial demolition of other agricultural buildings, and in any case, the Council refused to grant prior approval. It is not, therefore, determinative in reaching my decision.
25. I am aware that the proposal was subject to representations indicating both support and objection. While I have had regard to them, none raise issues of such weight that they would lead me to reach a different conclusion.

Conclusion

26. For the reasons given above, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR

⁴ APP/Y1138/W/20/3252641