



Appeal Decision

Site visit made on 30 July 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2024

Appeal Ref: APP/J0405/W/24/3338831

Land off Stratford Road, Nash, Buckinghamshire

- 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 James Gibson (Blackthorn Place Agricultural) against the decision of Buckinghamshire Council.
 - The application Ref is 23/03631/COUAR.
 - The development proposed is prior approval for the conversion of a barn to C3 residential unit under Class Q.
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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 (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) for prior approval for the conversion of agricultural building to form a dwelling at land off Stratford Road, Nash, Buckinghamshire in accordance with the application 23/03631/COUAR 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 Order and subject to the additional conditions in the attached schedule.

Preliminary Matters

2. The appeal site address differed between the application form, appeal form and other documentation. Moreover, the post code and grid reference did not match the location of the site. I have used the address given on the application form and Council's decision notice in the banner heading above. I am satisfied that the red edge of the application site is sufficient to identify the land in question.
3. The Council confirmed in its statement that, based on the evidence provided by the appellant, it no longer wished to contest its first reason for refusal of the application relating to the extent of the agricultural unit. I have therefore not considered this matter any further here.
4. The Town and Country Planning (General Permitted Development) England Order 2015 was amended by the Town and Country Planning (General Permitted Development) England (amendment) Order 2024 (S.I. 2024/579) and this came into force on 21 May 2024. Elements of the amendments affected Schedule 2, Part 3, Class Q. However, 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 references from the Order prior to the May 2024 amendments.

5. The matters in dispute are:

- Paragraph X, Part 3, Schedule 2 – whether the area of land immediately beside or around the agricultural building is larger than the land area occupied by the agricultural building.
- Paragraph Q.2.(e), Class Q, Part 3, Schedule 2 – 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).

Main Issues

6. The main issues are:

- a) whether the proposal would benefit from deemed planning permission as permitted development having regard to whether the curtilage of the building would meet the definition given at Paragraph X, Part 3, Schedule 2 of the Order, and
- b) if the proposal does amount to permitted development, 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 proximity of the building to the adjacent barn.

Reasons

Permitted development and curtilage

7. The Order defines Class Q as “a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses)”. The order does not prescribe which land could or should be included within the curtilage.
8. Paragraph X, Part 3, Schedule 2 of the Order 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. Therefore, if the proposal fails to meet the definition at Paragraph X, it would not benefit from deemed permission as permitted development under the Order.
9. 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. In this instance, the appellant has identified an area of land to the rear of the proposed dwelling which would have an area of 114 square metres, 1 square metre less than the land area of the agricultural building. This complies with the criteria set out in (b) above.
10. The red edge of the application site includes a substantial area which is clearly well in excess of the land area occupied by the existing barn. This area of land

includes the rear amenity area, parking and manoeuvring area and the access to the highway. The red edge is, however, not necessarily contiguous with the curtilage. I therefore conclude that the identified area is smaller than the land area occupied by the agricultural building and therefore in this regard, the proposal complies with the provisions of Paragraph X, Part 3, Schedule 2 of the Order.

11. I have had regard to previous appeal decisions cited by both the Council and appellant in this matter¹. These however do not provide a clear direction in relation to this appeal. This is because there is commentary on decisions provided by both parties which suggest that parking and manoeuvring areas should, and should not, be included within the curtilage. As such I have formed my own judgement based on the circumstances of this case and my interpretation of the Order.

Siting of building

12. The existing building is located next door to a part brick, part metal framed agricultural building to the north east. At the time of my site visit this was unused, however that is not to say that this is the ordinary course of events. Even so, it showed little evidence of recent occupation.
13. The Council concern rests with noise, disturbance and odour from agricultural activities within and around this neighbouring barn. This barn however is very small by modern agricultural standards. It is unlikely to be able to accommodate more than a handful of farm animals or a fairly limited amount of equipment and operations. Consequently, the levels of noise, disturbance and odour from a small a number of farm animals would be very different from a modern, commercially operated, farming activity.
14. The two buildings are reasonably separated, and the proposed dwelling has no side facing windows that address this neighbouring barn. Given this separation and orientation, I am satisfied that any low-key agricultural activities that could take place within the adjacent barn would not adversely affect the living conditions of the occupants of the proposed dwelling. I have noted the Unilateral Undertaking provided by the appellant, but given my findings above, do not find it necessary to require the restrictions on land ownership to be imposed.
15. I conclude that the location or siting of the building would not make it impractical or undesirable for conversion to a dwellinghouse and the proposal complies with this condition of the Order.

Conditions

16. Section W(13), Part 3 to Schedule 2 of the Order allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Council have nominated three conditions and I have imposed these all here with some edits and modifications.
17. Condition 1 relates to the approved plans and is imposed in the interests of certainty as to what is permitted. I have edited this condition as there is no

¹ APP/A2335/W/20/3264905, APP/Z2830/A/14/2229278, APP/Z2830/W/15/3010109, APP/X1545/W/15/3007941, APP/M1710/W/22/3310677 & APP/U2615/W/22/3309355

requirement for a time limit given that this is a requirement of Paragraph Q.2(3) of the Order. Conditions 2 and 3 are highway relevant conditions and ensure the access is constructed to a suitable standard and sufficient space is available within the site for vehicles to park clear of the highway which is subject to the national speed limit in this location.

Conclusion

18. For the reasons given above the appeal is allowed and prior approval is granted.

Nick Bowden

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan - 002 Rev 5, Proposed Layout Plan - 001 Rev 5, Proposed Barn Plan and Elevations - 004 Rev 5.
2. The scheme for parking and manoeuvring indicated on the approved Proposed Layout Plan (001 Rev 5) shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.
3. Prior to the first occupation of the dwelling hereby permitted, the access shall be upgraded in general accordance with the approved plans and constructed to the appropriate Buckinghamshire Council access standards. The access shall thereafter be retained as such in perpetuity.

End of Schedule