



Appeal Decision

Site visit made on 11 June 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2024

Appeal Ref: APP/B3030/W/24/3339361

Honey Lane Farm, Honey Lane, Thorpe, Newark NG23 5PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant prior 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 Bruce Homer, against the decision of Newark and Sherwood District Council.
 - The application Ref is 23/00839/CPRIOR.
 - The development proposed is described as "Notification for Prior Approval for a Proposed Change of Use of Agricultural Buildings to 5 Dwellinghouses and for Associated Operational Development."
-

Decision

1. The appeal is dismissed.

Background and Main Issues

2. Class Q of Part 3 of Schedule 2 to the General Permitted Development Order (the GPDO) states that development consisting of Q(a) 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) of the Schedule of the Use Classes Order; and Q(b) building operations reasonably necessary to convert the building, is permitted development.
3. On 21 May 2024, Statutory Instrument 2024 No 579 came into force amending Article 3(1), Schedule 2, Part 3, Class Q of the GPDO. Due to the transitional arrangements, I have proceeded to determine the appeal in accordance with the GPDO provisions that were in force at the time the original application was submitted in May 2023. Consequently, I have not invited further comments from the parties. All references to the GPDO in this decision therefore relate to the version that was in force at that time.
4. The Council refused the application on the grounds that the level of demolition proposed goes beyond 'partial demolition to the extent reasonably necessary to carry out building operations'; insufficient information to enable the authority to determine whether the site will be contaminated land; and substandard access arrangements to accommodate the additional traffic generated by the proposed development.
5. Based on the submissions of the main parties, there is no reason for me to believe that the other criteria of Class Q are not satisfied. Consequently, there is no need to give them further consideration in this decision.

6. Therefore, the main issues are:

- whether the proposed development falls within the terms of the permitted development rights under Article 3(1), Schedule 2, Part 3, Class Q of the GPDO, with specific regard to the extent of demolition proposed; and
- if so, whether the prior approval of the transport and highways impacts of the proposed development; and contamination risks on the site, would be acceptable.

Reasons

Whether the proposal would be permitted development

7. The permitted development right under Article 3(1), Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO allows the change of use of an agricultural building and any land within its curtilage to a dwelling house together with building operations reasonably necessary to enable the conversion, subject to various limitations and conditions as set out in paragraphs Q.1 and Q.2 of that Class.
8. The Planning Practice Guidance (PPG) advises that the right under Class Q assumes that agricultural buildings are capable of functioning as dwellinghouses.
9. Under the provisions of Paragraph Q.1(j)(ii) permitted development is restricted to partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(j)(i).
10. The proposed scheme seeks to convert four existing agricultural buildings into five separate residential dwellings, these being described as barn 'A'; barn 'B'; barn 'C'; barn 'D' and barn 'E'. The proposal includes the demolition of another building (the adjacent building) on the site, located in close proximity to barns A, B and C. The demolition of the adjacent building, which has a floorspace of approximately 305 square metres would then allow barns A, B and C to function as dwellinghouses. A 'lean-to' extension on barns C and D is also proposed to be demolished.
11. The extent of demolition works permitted under Class Q is not defined within the GPDO. Similarly, there is also no such guidance within the PPG.
12. The conversion of barn A, due to its juxtaposition with the adjacent building, is reliant on the complete demolition of the adjacent building. To a lesser extent, that is also the case for the conversion of buildings B and C, in order for those buildings to function as dwellings.
13. While the adjacent building abuts barns A, B and C, it is a separate building to the barns to be converted. Therefore, even though the adjacent building is set within a complex of other farm buildings to be converted, it is a separate building, nonetheless. It is also proposed to demolish the building in its entirety and there is no provision within Class Q for the complete demolition of separate buildings.
14. As a result, the complete demolition of the adjacent building would not amount to 'partial demolition to the extent reasonably necessary to carry out building operations', even within the context of the wider scheme to convert the buildings within the site.

15. My attention has been drawn to a separate application for prior approval under Schedule 2, Part 11, Class B of the GPDO, which was granted (the existing approval) by the Council on 13 March 2024 for the demolition of the adjacent building. I observed during my site visit that the adjacent building was still on the land, as shown on the submitted plans.
16. While the existing approval exists and the adjacent building could subsequently be demolished by the appellant under Schedule 2, Part 11, Class B of the GPDO, there is no such provision within Class Q. Furthermore, on the evidence before me, there is no mechanism that would ensure that the adjacent building is removed under the existing approval, prior to works commencing under the proposed Class Q scheme. As such, there is no certainty that it would be removed or at what stage, if at all.
17. I have also had regard to the Court cases cited by the appellant and the implications of these judgements. However, these arguments have not changed my reasoning here.
18. Consequently, the full extent of demolition and works on land surrounding building A, B and C would not fall within the description of development specified as 'permitted development' at Class Q. I therefore conclude that the submitted scheme would not be permitted development under Class Q(b).

Whether prior approval is required and should be granted

19. Given my conclusion that the proposed development would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required, as it would not alter the outcome of the appeal.

Conclusion

20. For the reasons given above, I conclude that the proposed development is not permitted development under Schedule 2, Part 3, Class Q of the GPDO and the appeal is therefore dismissed.

N Bromley

INSPECTOR