The Planning Inspectorate

Appeal Decision

Site visit made on 29 May 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21/06/2024

Appeal Ref: APP/B3438/W/24/3339568
Meridian Farm, Apesford Farm, Bradnop, Leek, Staffordshire ST13 7EX

- 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 Robert Shufflebotham, against the decision of Staffordshire Moorlands District Council.
- The application Ref is DET/2023/0014.
- The development proposed is convert the mezzanine into a dwelling.

Decision

1. The appeal is dismissed.

Background and Main Issue

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. Development proposed under Class Q(a) together with Class Q(b) is subject to the condition under paragraph Q.2(1). This requires that before beginning the development, an application must be made to the local planning authority for a determination as to whether the prior approval will be required. In this respect, Q.2. sets out the matters that are to be considered when determining an application for prior approval under Class Q.

4. The Council refused the application on the grounds that it would be impractical and undesirable for the building to change from an agricultural use to a use falling within Class C3 (dwellinghouses) as set out in Q.2.(e).

5. On 21 May 2024 the GPDO was revised and included amendments to Class Q. Given the nature of the amendments, I do not consider that the changes would affect the principal issue of dispute. As a result, I have not sought submissions on the changes, and I am satisfied that no party's interests have been prejudiced by taking this approach.

6. Consequently, the main issue is whether the location or siting of the agricultural building make it otherwise impractical or undesirable for use as a dwellinghouse in terms of its effect on the living conditions of future occupiers.

Reasons

7. The appeal site is a pair of attached steel framed, timber agricultural style buildings, located within the small Meridian Farm. One of the pair includes a mezzanine floor. The proposal is to convert this floor area into a new dwelling. The remainder of the building will continue in agricultural use, as would the adjoining building.

8. On my site visit, I observed that the mezzanine was currently used for a number of purposes, but primarily an office area, dog kennelling and for the storage of various domestic and non-domestic items. The ground floor of the building was in use for agricultural purposes. In particular, there were a number of sheep in a pen and hay storage was also evident. A number of other pens also appeared to be in use, but they were empty at the time of my visit. An elevated structure had also been erected which appeared to house chickens. A small yard area, which contained two horses, as well as a manure heap were located next to the building.

9. The PPG[1] states that 'impractical or undesirable' are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would 'not be sensible or realistic', and undesirable reflects that it would be 'harmful or objectionable'.

10. The PPG gives the example of a building on top of a hill with no road access, power source or other services is given as an instance where conversion may be considered impractical, and the example of the location of a building adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals is given as an example of a case where conversion may be undesirable. However, these examples are not a closed list of potential impractical and undesirable circumstances.

11. Paragraph W(10)(b) of Schedule 2, Part 3 of the GPDO requires that regard be had to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval as if considering a planning application. Paragraph 135 of the Framework, amongst other things, states that decisions should ensure that developments promote health and well-being, with a high standard of amenity for existing and future users.

12. The current lawful use of the appeal site and the surrounding land and buildings is for agriculture and the appellant describes the site as an active farm. As such and considering the nature of farming there would be the potential for noise disturbance and odours from agricultural activities. The activities are likely to take place at any time of the day or night and for 7 days a week. That would remain were I to allow the appeal.

13. I acknowledge that sheep are only likely to be kept in the building during lambing or when they are sick, and that only a small number of chickens are kept. However, the residential accommodation would be contained within the same building as the livestock and the other agricultural operations and uses of the site. Furthermore, the other adjoining building would also remain in agricultural use and livestock could be housed in this building also.

[1] PPG Paragraph: 109 Reference ID: 13-109-20150305

14. Even though the appellant suggests that the building has a good level of ventilation, during my site visit I experienced strong, unpleasant odours within the building and within the adjacent yard. It is not known whether the conversion works would compromise the existing air flow and ventilation within the building or not. However, due to the nature of the conversion works to a dwelling, I suspect that some air flow and ventilation would be lost.

15. The continued use of the ground floor of the building, as well as the adjoining building, for agricultural operations of the farm, including housing livestock, would result in a high likelihood of unpleasant animal smells. The periodic use of a tractor also raises the prospect of intrusive noise effects around the dwelling, in addition to exhaust fumes. There would also be other objectionable disturbances such as flies being experienced within the building.

16. Therefore, the use of the mezzanine as a dwelling, would be unacceptably harmful to the future occupiers of the residential dwelling.

17. While I accept that the owner or someone employed in agriculture may be more accustomed to agricultural activities, the likely noise disturbance and odour from livestock and other associated smells, would be harmful to their living conditions, nonetheless. It would also be harmful to any resident dependents, who may be less resilient to such circumstances. Therefore, notwithstanding the suggested agricultural occupancy condition, and the views of the Council's Environmental Health officer, this would not overcome my concerns. For the same reasons, a S106 agreement would not overcome the harm either. In any event, I have no such agreement before me.

18. The appellant would have control over what operations are carried out in the buildings, but there is no guarantee this would remain the case. There is also a lack of clear evidence of an existing, suitable, alternative building within the holding, aside from that attached. However, use of the adjoining building would present similar issues, and so I am not persuaded that it would be a suitable alternative. In addition, a condition which restricts livestock from the buildings could prejudice the operations of the agricultural business and I am not convinced that such a condition would be reasonable. Furthermore, it would not be feasible for the Council to continually monitor the use of the building and therefore a condition of this nature would not be enforceable.

19. Drawing my findings together, the location and siting of the building makes it impractical and undesirable for the building to change to the proposed dwellinghouse, in terms of its effect on the living conditions of future occupiers.

Conclusion

20. For the reasons given above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

N Bromley

INSPECTOR