Planning Inspectorate

Appeal Decision

Site visit made on 12 December 2024

by R Lawrence BSc (Hons), PGDip (TP), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2025

Appeal Ref: APP/Z3825/W/24/3348147
Amiesmill Farm, Kerves Lane, Horsham, West Sussex RH13 6RL

- 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 Nigel Francis against the decision of Horsham District Council.
- The application Ref is DC/24/0084.
- The development proposed is the conversion of an agricultural building to a dwelling and associated building works.

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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of an agricultural building to a dwelling and associated building works at Amiesmill Farm, Kerves Lane, Horsham, West Sussex RH13 6RL in accordance with the application DC/24/0084 and the details submitted with it including plan nos 22-03-01, 2022/1/4 Rev B and 2022/1/2 Rev B. This approval is subject to conditions set out by Paragraph Q.2(3) of Schedule 2, Part 3, Class Q of the GPDO in that development must be completed within a period of 3 years from the date of this decision as well as the provisions specified in paragraph W. The approval is also subject to the conditions in the attached schedule.

Background and Main Issue

2. On 12 December 2024, a revised National Planning Policy Framework was published. Paragraph W(10)(b) of Schedule 2, Part 3 of the GPDO requires that regard must be had to the Framework so far as relevant to the subject matter of the prior approval. The substantive parts of the new 2024 version do not differ from the previous insofar as they relate to the prior approval matters relevant to this appeal. I have therefore made my decision with regard to the revised Framework (the Framework).

3. The proposal relates to works under Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO), for the change of use of an existing agricultural building to a dwelling (Use Class C3) with associated works.

4. The Council does not dispute that the proposal meets the requirements of Q.1 of the GPDO and therefore constitutes permitted development under Class Q, subject to the prior approval of certain matters.

5. The main issue is whether the location or siting of the building would make it undesirable for the building to change to a dwellinghouse in terms of whether the proposal would provide satisfactory living conditions for future occupiers, with regard to noise and disturbance.

Reasons

6. Class Q.2(1)(e) relates to 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).

7. The appeal building comprises a detached barn, positioned centrally within a group of farm buildings which are accessed from Kerves Lane and located beyond the farmhouse. The building lies in close proximity to a U-shaped stable building (the adjacent stable building), which, at the time of my site visit featured stables on one side, with the remainder featuring hay stores, tack rooms and associated storage, feed and wash areas. I noted that the stable building could be accessed both from the yard as well as via a track which joins Sedgewick Lane.

8. A previous, similar application was dismissed on appeal[1] (the 2023 appeal) because the location of the appeal building was considered to make it undesirable for it to be used as a dwellinghouse in terms of its effect on the living conditions of future occupiers, with particular regard to noise and disturbance from the adjacent stable building. Since this decision, permission has been granted and works have taken place to the adjacent stable building, to reduce the number of stables, create a separate access and to limit the use to private stabling (the 2024 permission)[2].

9. The shape of the stable building is such that stable doors would open into a yard, which is enclosed by the building itself. Furthermore, the layout of the proposed dwelling would involve a garage and workshop located on the side closest to the stables. No windows are proposed on the side elevation facing the adjacent stables. As such, whilst the distance between the two buildings is unchanged from the 2023 appeal, the layout of each building is such that the distance to the nearest habitable room would be increased.

10. Despite the availability of a separate access, there are no mechanisms before me to prevent the stables being accessed from Kerves Lane. As such, there is the possibility of activity from vehicles, persons and horses passing directly in front of the proposed dwelling. Nonetheless, the private keeping of horses, would by its nature limit the level of activity, including the numbers of vehicles driving to/from the stables.

11. The reduction in the number of stables, together with the private nature of the equestrian use, would also limit pedestrian and equestrian activity more broadly. Given the location of the site, within a farm complex and a rural countryside setting, a low level of equestrian activity, such as that proposed, would not be unexpected. Although a noise survey has not been submitted, given the above factors, any noise and disturbance would be minimal.

12. I have been referred to an appeal decision at Thistledown Cottage, in that case the Inspector was unable to conclude that the equestrian and agricultural activity would not result in harmful effects. It is not clear what information was before that

[1] APP/Z3825/W/22/3306617
[2] DC/23/1486

Inspector, however a contributing factor in that case was the lack of a mechanism to ensure the pastureland and equestrian use were linked to the proposed dwelling. That Inspector also cited a lack of information about the scale of activity on adjacent land. In this case, there is an existing mechanism in place through the 2024 permission restricting use of the adjacent building to private stabling, therefore giving a degree of certainty over the level of equestrian activity.

13. In comparison with the 2024 permission, I consider that the changes on site, with particular regard to the reduced level of activity associated with the stables, provide sufficient certainty that the proposal would not result in adverse effects by way of noise. Consequently, I am satisfied that the location and siting of the building would not make it undesirable for the building to change to a dwellinghouse as the proposal would provide satisfactory living conditions for future occupiers, with regard to noise and disturbance.

14. The Framework seeks that development provides a high standard of amenity for existing and future users. The proposed change of use would be accord with the Framework in this respect.

Other Matters

15. The appeal site falls within the Sussex North Water Supply Zone, wherein Natural England has issued a position statement for applications which states that it cannot be concluded with the required degree of certainty that new development in this zone would not have an adverse effect on the integrity of the Arun Valley SAC, SPA and Ramsar sites.

16. The grant of planning permission under Article 3(1) of the GPDO is subject to the provisions of the GPDO for each class of development and compliance with regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). Effectively, Article 3(1) provides a precommencement condition which must be met, where the development would affect a European protected habitat, before the works can be undertaken as permitted development. This includes a separate application to the Council under regulation 77 of the Habitats Regulations to allow the Council to undertake an appropriate assessment and, depending on the outcome, this would determine whether, in terms of that matter, the scheme could be undertaken as permitted development under the GPDO.

17. Based on the evidence before me, it does not appear that an application to the Council under regulation 77 has been made. However, as the regulation 77 application can be submitted and potentially approved after the grant of prior approval, it is not determinative in respect of the main issues that I have examined.

18. The process in this instance nevertheless still requires the developer to submit a Regulation 77 application and receive written notification of the approval from the Council prior to commencement of development. This process also allows me to be satisfied that the appeal proposal would not adversely affect the integrity of the SAC.

Conditions

19. Paragraph W(13) of the GPDO allows prior approval to be granted subject to conditions reasonably related to the subject matter of the prior approval. The Council has recommended a pre-commencement condition relating to potentially

contaminated land. I have considered this in accordance with the Planning Practice Guidance and the Framework.

20. Conditions are necessary given the previous agricultural and commercial use of the site, and the potential for contamination risks, to ensure the sites' suitability for residential use. However, I have amended the wording to address the eventuality of any previously unidentified contamination being found during the course of development, as well as for clarity and enforceability.

Conclusion

21. For the reasons given above the appeal is allowed and prior approval is granted, subject to conditions.

R Lawrence

INSPECTOR

SCHEDULE OF CONDITIONS

1) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, no development shall take place until:

   i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority;

   ii) the site has been remediated in accordance with the approved measures and timescale; and

   iii) a verification report has been submitted to and approved in writing by the Local Planning Authority.

2) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

   i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority; and

   ii) a verification report for all the remediation works has been submitted to and approved in writing by the Local Planning Authority.

****End of schedule****