The Planning Inspectorate

Appeal Decision

Site visit made on 28 February 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 March 2017

Appeal Ref: APP/V2255/W/16/3161427
Fruit Store, Wrens Hill Farm, Wrens Hill, Norton, Faversham, Kent ME13 0SH.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 (as amended) (the GPDO).
- The appeal is made by D J Moor Partnership against the decision of Swale Borough Council.
- The application Ref 16/502242/PNQCLA, dated 12 February 2015 was refused by notice dated 6 May 2016.
- The development proposed is the change of use of a building and land within its curtilage from an agricultural use to a use falling within Class C3 (dwelling-houses).

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Paragraph Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of a building and land within its curtilage from an agricultural use to a use falling within Class C3 (dwelling-houses) at Fruit Store, Wrens Hill Farm, Wrens Hill, Norton, Faversham, Kent ME13 0SH in accordance with the terms of the application 16/502242/PNQCLA, dated 12 February 2015.

Preliminary Matters

2. In the interests of brevity I have taken the description of development from the Appeal Form.

3. Under Class Q of the GPDO permitted development rights apply to a change of use of a building and any land falling within its curtilage to a use falling within Use Class C3 together with building operations reasonably necessary to convert the building to such a use. Paragraph Q.1 sets out the limitations applying to the exercise of permitted development, while paragraph Q.2 sets out the conditions applying.

4. There is no dispute between the parties that the proposal would comply with the relevant criteria laid out in Paragraph Q.1 and I see no reason to take a contrary view. Moreover, the Council has not alleged that prior approval is required in respect of transport and highways, noise, contamination, flooding or the design or external appearance of the building as set out in paragraph Q.2.

5. However, the Council argue that prior approval is required and refused under Class Q.2 (e) with regards 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*". Clarification is provided by the "*Planning Practice Guidance*" (PPG) as to what might be meant by "*impractical*" or "*undesirable*" for the purposes of paragraph Q.2[1]. My interpretation of the PPG is that these words are restricted to their commonly-understood everyday meaning. When siting and location are considered, the PPG indicates that the decision-maker should consider the "*National Planning Policy Framework*" only to the extent that it is relevant to the matter upon which prior approval is sought.

Main Issue

6. In light of the above, the main issue is whether or not the proposed change of use would be permitted development under the provisions of Part 3, Class Q of Schedule 2 to the GPDO with regard to whether the location or siting of the building makes it otherwise impractical or undesirable for a residential use.

Reasons

7. The appeal building is a 4-bay, rectangular agricultural building which appears to be used mainly for the storage of fruit in connection with the surrounding orchard. There is little doubt that it is sited in a remote location on agricultural land to the north of the M2 motorway. The site is accessed via an unmade track from either Norton Lane or Rushett Lane although I understand access is to be taken from the former which I inspected when I conducted my site visit.

8. The Council's opposition to the scheme is based primarily on the length and condition of the access track. However, unmade farm tracks of this nature are not unusual as a means of residential access particularly in rural areas. In this case the access route is well established and is in reasonably good order such that I was able to negotiate it in a small family car without difficulty. I did not find the length of the route to Norton Lane to be excessive in the context of this rural location. Whilst I accept the access track would benefit from some patching work to fill in some of the pot-holes, this would be a relatively straightforward and inexpensive exercise that could be undertaken by future occupiers.

9. The *practicality* and *desirability* tests evidently have high thresholds with the PPG citing as an example a building on top of a hill with no road access. Neither of these situations, or similar occur in this case. In coming to that view I accept the Council's argument that there might be times when for reasons other than those examples cited in the PPG, it might be practical and/or desirable to restrict the Class Q right. However, given that I have found the building's access arrangements to be acceptable, it cannot reasonably be argued that the proposal would be *impractical* in this instance.

10. The Council has referred to potential problems for emergency vehicles wishing to access the site. However, even if I had found the access impracticable under the terms set out in the PPG, movements of these types of vehicles along the access would be extremely infrequent.

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

11. Finally, I have had regard to the Council's argument about the separation from the local community. However, the Class Q right does not apply a test in relation to the sustainability of location, recognising that many agricultural buildings will not be in village settlements.

Conclusion

12. For the reasons given above, I conclude that the location or siting of the building would not make the proposed change of use impractical or undesirable and that the appeal should be allowed and prior approval granted. In granting approval the appellant should note that there is a requirement in the GPDO at paragraph Q.2(3) for a condition related to the time development should begin, in this case within three years of the date the prior approval is granted, and, at paragraph W (12), that the development shall be carried out in accordance with the details approved.

D. M. Young

Inspector