

Appeal Decision

Site visit made on 16 October 2018

by Kevin Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2018

Appeal Ref: APP/F1040/W/18/3204651

Agricultural Barn, Land to the North of Commonpiece Lane, Cropper, Ashbourne, Derbyshire DE6 5JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015.
 - The appeal is made by Mr J O'Halloran against the decision of South Derbyshire District Council.
 - The application Ref 9/2017/1296, dated 27 November 2017, was refused by notice dated 31 January 2018.
 - The development proposed is change of use of an agricultural building to a dwellinghouse along with associated operational development.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for change of use of an agricultural building to a dwellinghouse along with associated operational development, at Agricultural Barn, Land to the North of Commonpiece Lane, Cropper, Ashbourne, Derbyshire DE6 5JF, in accordance with the terms of the application Ref 9/2017/1296, dated 27 November 2017, and subject to the conditions listed in the attached schedule.

Procedural Matters

2. The description of development in the banner heading and formal decision, is taken from the appeal form, as Section 4 of the application form did not clearly describe the proposed development.
3. Drawing 02001 Rev P2 is titled 'Plan & Elevations as Existing', but it is clear that it actually shows the proposed plan and elevations. Drawing 01001 Rev P1 in fact shows the existing plans, elevations and sections. I have considered the appeal on this basis.

Background and Main Issue

4. Class Q of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses)¹ and any building operations reasonably necessary to convert the building. There is no dispute between the main parties that the proposal meets the requirements of paragraph Q.1. and

¹ Of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended.

therefore that it constitutes permitted development under Class Q, subject to the prior approval of certain matters.

5. Paragraph Q.2.(1) lists conditions under which the developer must apply to the local planning authority for a determination as to whether prior approval will be required as to the impact of the development on various matters. The Council's decision notice indicates that prior approval was refused only in respect of matter (a) transport and highways, and there is no dispute between the parties in respect of the other matters.
6. Therefore, the **main issue** is the effect of the proposal on highway safety.

Reasons

7. The appeal site is located to the outside of a bend on Commonpiece Lane with an existing access to an area of hardstanding in front of an agricultural building. The Council's concern is that drivers approaching the site from the junction with James's Lane would not have sufficient visibility to see vehicles waiting to turn right into the site. It argues that the proposal would increase the use of the access and in turn the likelihood of rear end shunts.
8. The appellant has submitted a traffic speed survey undertaken by a highways consultant, who concludes that given the proximity of the James's Lane junction to the site, vehicle speeds would be no greater than 30 miles per hour on approach to the bend. This would equate to a need for a 43 metre forward visibility, which is shown on the submitted plan Ref 17-0519/001 Revision A.
9. The Council, through the comments of the Highway Authority, disputes this forward visibility, arguing that 57 metre visibility is required, based on the 85th percentile speeds within the survey, and puts forward visibility at 20 metres, based on there being no verge and a large hedge to the inside of the bend.
10. The appellant further points to a planning permission granted for the site in 2012² for development of a new stable building and manège, which was not implemented, but where the Council raised no objection in terms of highway safety. The appellant argues this use would have generated more vehicle movements than the single dwelling now proposed.
11. The existing entrance is used to access the agricultural building and adjacent fields, and is likely therefore to generate an amount of agricultural traffic such as tractors with trailers or machinery. Whilst the bend is sharp, the access itself is visible from the junction with James's Lane, and therefore drivers approaching the site would be aware there is an entrance, with the possibility of vehicles turning in or out.
12. Whilst the appellant's plan shows a 43 metre forward visibility on approach from James's Lane, this is indicated as cutting across the hedge on the inside corner. However, given the visibility of the entrance and the short accelerating distance from the junction at James's Lane, and the lack of visibility around the bend, it should be expected that drivers would not be travelling at excessive speed, which is borne out by the speed survey, and that they would be exercising due care approaching the bend to safely take the corner. I am not provided with evidence of any accidents on the bend, nor did I observe any warning signs alerting drivers to particular danger.

² Council Ref 9/2011/1033/NO, granted 10 August 2012

13. The Council's analysis of the perceived risk, however, gives an impression of a busy road with a high risk of accidents occurring. The proposed use as a dwelling would generate limited vehicular movements given its small scale. Those movements would not be materially greater than those which occur in respect of the existing agricultural use, or which would have arisen from use as a stable. Moreover, the road is not a major thoroughfare, but a lightly trafficked rural road. I observed traffic to be intermittent, with several minutes between vehicles at times. The likelihood of a vehicle having to wait any length of time to turn right into the site is therefore very low. At worst, a vehicle may have to wait for a few seconds for the road to be clear. However, the risk of a vehicle approaching behind the waiting vehicle, far enough back not to have seen it slow and stop, but close enough to then meet it within the limited time it is stationary whilst waiting to turn is, to my mind, extremely small.
14. I accept that, on the ground, the full forward visibility sought by the Council may not exist. However, the access already exists, and therefore the perceived risk already exists, and would not be wholly generated by the proposed development. The scale and nature of the proposal means it would not lead to a demonstrable increase in vehicular movements which would exacerbate this risk to such a degree as to materially harm highway safety, when compared to the existing situation.
15. I note the appellant's reference to a separate development nearby at Longford Lane, which I observed at my site visit. However, I am not provided with the full particulars of this proposal, for example whether a previous access existed, with which to establish if the situations are directly comparable. I have not found this example determinative, therefore, in my consideration of the appeal.
16. I have had regard to the National Planning Policy Framework³, so far as it is relevant to the subject matter of the prior approval. Paragraphs 108 and 109 require that safe and suitable access to the site can be achieved for all users, but that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Given my findings above, I conclude that the access would be sufficiently safe and suitable, and would not have an unacceptable impact on highway safety. I therefore find no conflict with the Framework in this respect.
17. For the reasons set out above, I conclude that the proposal would not have a harmful impact on highway safety, and would be acceptable with respect to matter (a) of Paragraph Q.2.(1).

Other Matters

18. I have had regard to the comments of an interested party, raising objection to the principle of the proposal. The GPDO gives the right to change an agricultural building to a dwelling under Class Q, but is subject to restrictions to prevent agricultural buildings being erected and immediately turned into dwellings. Those buildings converted to dwellings under Class Q would not set a precedent, as each case must satisfy all applicable conditions, limitations and restrictions of the GPDO to benefit from the permitted development right.

³ Published 24 July 2018

Conditions

19. Paragraph Q.2.(3) stipulates that development under Class Q must be completed within a period of three years from the approved date. Paragraph W(12) requires the development to be carried out in accordance with the approved details. I shall therefore impose a condition specifying the approved plans, in the interests of certainty.
20. Three conditions are suggested by the Highway Authority requiring the access and parking area to be laid out in accordance with the plans prior to occupation of the building as a dwelling house, and a requirement for gates to the entrance to be set back from the highway and inward opening. These conditions are necessary in the interests of highway safety.

Conclusion

21. For the reasons set out above, the appeal is allowed.

Kevin Savage

INSPECTOR

Schedule – Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 01001 (Location Plan as Proposed); 01002 Rev P1 (Site Plan as Proposed); 02001 Rev P2 (Plan & Elevations as Existing – *in fact as Proposed*); 28328_T Rev 0 (Topographical Survey); SA30388/01 (Location Plan at 10,000 Scale); 01001 Rev P1 (*Existing Plans and Elevations*); 17-0519/001 Rev A (Site Access Arrangements incl visibility splays).
- 2) Prior to the proposed dwelling being occupied the existing access shall be modified in accordance with the application drawings, laid out, constructed and maintained in perpetuity free of any impediment to its designated use.
- 3) The dwelling shall not be occupied until the space has been provided within the application site in accordance with the approved plans for the parking and manoeuvring of residents' vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
- 4) There shall be no gates or other barriers within 5 metres of the nearside highway boundary and any gates shall open inwards only.

END OF SCHEDULE