

Appeal Decision

Site visit made on 25 August 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 23 September 2016

Appeal Ref: APP/Y2736/W/16/3148123

Gritts Farm, Main Road, Weaverthorpe, Malton, North Yorkshire YO17 8HD

- 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.
 - The appeal is made by Mr and Mrs T Vasey against the decision of Ryedale District Council.
 - The application Ref 15/01125/GPAGB, dated 25 September 2015, was refused by notice dated 20 November 2015.
 - The development proposed is change of use of agricultural building to a dwellinghouse (Use Class C3).
-

Decision

1. The appeal is dismissed

Procedural Matter

2. The application form did not explicitly set out what was applied for; however this was implicit from the content of the application form and accompanying plans. I have therefore used the description on the appeal form as this clearly sets out what was sought in the application.

Main Issues

3. The main issue in this appeal is whether the location of the proposal makes it otherwise impractical or undesirable for the change of use to take place.

Reasons

4. Gritts Farm comprises a farmhouse, cottage and several farm buildings including one that is served by a grain dryer, all sited in the open countryside outside the development limits of Weaverthorpe village. Gritts Farm Cottage is attached to the main farmhouse to the west of the application site, having a separate access on Main Road.
 5. It is proposed to convert the appeal building, a large two-storey brick built barn on the eastern side of a courtyard arrangement of buildings, to a 5 bed dwelling. The north and south sections of the appeal building incorporate a first floor. A cattle shed occupies the courtyard, accessed from the south. Following the planned demolition of the cattle shed, under an extant permission Ref 15/00728/FUL, part of the courtyard would provide a rear curtilage area for the new dwelling and a further curtilage would be formed from space at the front.
-

6. A storage barn linked to the south of the appeal building would be removed and grain storage maintained by extending existing sheds to the east of the site under permission 15/00728/FUL. Also under this permission, the existing main access to the farm would be moved further eastwards, away from the appeal building. The new dwelling would share the farm access, but the Council does not object to the access on safety grounds.
7. Nevertheless from the written evidence and what I have seen of the site, it would be appropriate to regard the proposed siting of the dwelling as within, rather than separated from the main agricultural activities on the farm. The new dwelling would extend in depth from the side elevation on Main Road, a considerable way into the farm. Large agricultural sheds, used for the arable operation of the farm are sited to the south where the grain dryer is located, and to the east where the shed extension is planned. The new dwelling would be in close proximity to these structures and the yard areas connecting them, where farm machinery and moving vehicles are much in evidence. As such the future occupiers would be likely to experience considerable noise and disturbance arising from the farming activities.
8. Furthermore the grain dryer would be situated some 28m from the new dwelling. It is said that this is no different to that which regularly occurs in rural settlements where dwellings are in close proximity to farm buildings. I disagree. The dryer is some two to three storeys high. Its air outlet faces the south elevation of the appeal building and there are no intervening barriers or structures that would mitigate the noise from the aeration fans or other associated components. There are no specific mitigation measures proposed that would enable an assessment as to whether they would effectively reduce sound amplitude levels at this close distance from the new dwelling.
9. No evidence is advanced as to other grain dryers of similar scale and/or specification so close to a permanent dwelling with unrestricted occupation. The example of Crosscliffe Barn was of a dryer to be sited approximately 110m from the nearest residential property, where the lack of a required sound barrier has given rise to substantial complaints of noise.
10. Having regard to the spatial relationship between the dryer and the proposed dwelling, it is likely that this could give rise to justified complaints of noise, even allowing for the limited use confirmed by the appellants. The Council's environmental health officers have significant concerns that the operation of a grain dryer so close to the new dwelling would adversely affect the living conditions of any future occupier, regardless of whether they were associated with farming.
11. Paragraph ID 13-109-20150305 of the Planning Practice Guidance (PPG) sets out that "impractical" reflects that the location and siting would not be sensible or realistic, and "undesirable" reflects that it would be harmful or objectionable.
12. The proposal would create harm to the occupiers of the proposed dwelling by virtue of noise and general disturbance from the surrounding farming activities, thereby diminishing their quality of life. As such its location and siting would make it undesirable and impractical for an independent, residential use.
13. Paragraph W(10)(b) of Schedule 2, Part 3 of the GPDO provides that regard must be had to the National Planning Policy Framework (Framework) so far as relevant to the subject matter of the prior approval. One of the core principles

set out in paragraph 17 of the Framework is to seek a good standard of amenity for existing and future occupiers of land and buildings. The proposed change of use would conflict with this core principle.

14. Paragraph W(13) of the 2015 Order permits conditions to be attached provided that they reasonably relate to the subject matter of the prior approval. I have considered whether the conditions put forward by the appellant could overcome the harm to future occupiers of the new dwelling. Conditions that limit the hours of use, restrict further grain dryers on the site, or enforce use of the approved access, would not in my view tackle the essential issue of the harm that could be caused by intensive use of the existing grain dryer during harvest time.
15. Alternatively, since the appellants intend to occupy the new dwelling, it is suggested that a condition could restrict occupation by way of an agricultural worker condition or a condition tying the ownership of the dwelling to the farm. The Council has accepted an occupancy restriction in other cases to mitigate an otherwise unacceptable harm to living conditions and I accept that in the right circumstances this might be an appropriate solution.
16. However I have to take seriously the concerns of the environmental health officers, noting in addition that there has been no noise assessment provided, or measures proposed that might mitigate the noise from the grain dryer. There may be a marginal improvement to security if the new dwelling were occupied by the appellants or a farm worker, but this does not weigh significantly against my concerns as to the living conditions, including possible health consequences, likely to be experienced by the future occupiers.
17. The typical agricultural worker's condition proposed, as with the condition tying ownership of the land, would not necessarily limit actual occupation to someone who continues to work on the farm and therefore who might be more tolerant of the adverse impacts of the surrounding noise and activity. Even if it were limited to a person and their immediate family solely or mainly working on the farm itself, this would not overcome my concerns given the limited information supplied as to the potential noise impacts of the grain dryer located 28m from the receptor and disturbance from other farm activities.
18. The previous appeal decisions¹ in the Council's area have been considered where it was deemed undesirable for the agricultural buildings to change use under Class Q. However I have determined this appeal on its own merits.
19. The appeal decision submitted by the appellants² does not disclose the relationship of the approved dwelling to the rest of the farm activity and the agricultural worker's condition was considered appropriate due to a more generalised concern of the parties of the location of the building on a working farm. It is therefore of limited weight in this appeal.
20. The subject matter of the application does not include the issue of whether an agricultural occupancy condition should be specially justified to support the principle of a C3 use in the open countryside. That particular issue does not

¹ APP/Y2736/W/15/31402, 13 Pheasant Hill Farm
APP/Y2736/W/15/3009683, Longlands Hall Farm, Ryton
APP/Y2736/W/14/3002184, The Granary, Buttercrambe
² APP/N2739/W/15/3003584

therefore arise and I have not considered sustainability of location issues to be relevant in this appeal.

21. For the above reasons the proposed change of use would be undesirable in this location due to the harmful effect of the farming operations on the living conditions of future occupiers. On the information supplied I am not persuaded that conditions would satisfactorily overcome such harm.
22. Plans were submitted showing associated building operations for the proposed dwelling; however in light of my conclusion on the change of use under Class Q(a), there is no need to address this matter.

Conclusion

23. For the above reasons and having regard to all other matters raised the appeal is dismissed.

Grahame Kean

INSPECTOR