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## Appeal Decision

Site visit made on 1 October 2019

**by Tobias Gethin BA (Hons), MSc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 October 2019**

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**Appeal Ref: APP/W3330/W/19/3234524**

**The Barn, The Willows, Curload, Stoke St Gregory, Taunton, Somerset TA3 6JD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 N Hector against the decision of Somerset West and Taunton.
  - The application Ref 36/19/0013/CQ, dated 24 April 2019, was refused by notice dated 25 June 2019.
  - The development proposed is conversion of Dutch barn to 2 large dwellings, courtyard curtilage and converted building.
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### Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for conversion of Dutch barn to 2 large dwellings, courtyard curtilage and converted building at The Barn, The Willows, Curload, Stoke St Gregory, Taunton, Somerset TA3 6JD in accordance with the terms of the application Ref 36/19/0013/CQ, dated 24 April 2019, and the plans submitted with it including DSGN0194\_CQ\_LB01, DSGN0194\_CQ\_EXG01, DSGN0194\_CQ\_EXG02, DSGN0194\_CQ\_EXG03, DSGN0194\_CQ\_SP01, DSGN0194\_CQ\_P01, DSGN0194\_CQ\_P02, DSGN0194\_CQ\_P03 and DSGN0194\_CQ\_P04, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q, paragraphs Q(a) and Q(b).

### Procedural Matters

2. Although the description of development suggests that the application relates only to a change of use, it is clear from the appeal documents that the development includes both a change of use and building operations, as referred to in paragraphs Q(a) and Q(b) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). I have determined the appeal on this basis.
3. The Council considers that the development accords with the requirements set out in Paragraph Q.1 of Schedule 2, Part 3, Class Q of the GPDO. There is no evidence before me to the contrary.
4. Paragraph W(10) of Schedule 2, Part 3 of the GPDO indicates that when determining an application, regard must be had to the National Planning Policy Framework 2019 (Framework) so far as relevant to the subject matter of the

prior approval, as if the application were a planning application. I have determined the appeal on this basis.

### **Main Issues**

5. Paragraph Q.2 of Schedule 2, Part 3 of the GPDO sets out that where the development proposed is under Class Q(a) together with development under Class Q(b), development is permitted subject to an application to the local planning authority for a determination as to whether their prior approval is required in relation to the matters sets out in paragraphs Q.2(1)(a) to (f).
6. With respect to the matters identified by the Council, the main issues are:
  - Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural to residential use, with particular regard to access, highways, economic benefits of nearby commercial uses, and noise disturbance to future occupiers of the dwellings; and
  - Flooding risks on the site.

### **Reasons**

#### *Impractical or undesirable*

7. Impractical or undesirable are not defined in the regulations. However, Planning Practice Guidance (PPG) sets out that: local planning authorities 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.
8. The appeal site includes an agricultural barn and an access track. Running across the site, the track joins with Curload Road to the north-west and Collickshire Lane/Stanmoor Mead Drove on the other side of the site. It provides vehicular access to the site and the B1/B8 commercial units located to the south-east. It is also used by others, including local residents using it as an alternative route to the highway and by agricultural vehicles using the Drove.
9. The appellant has indicated that the track would continue to provide vehicular access to the B1/B8 commercial units approved under planning permission 36/2005/022, as well as for the proposed dwellings. The appeal proposal would therefore not prevent the commercial units from operating and providing economic benefits as per the approved, existing situation.
10. The evidence before me indicates that the track is owned by the appellant and forms a private access. Use of the track by others could therefore be restricted at any time, irrespective of the appeal proposal. Should this occur, the alternative would involve use of the public highway and the junction between Curload Road and Collickshire Lane/Stanmoor Mead Drove. It is not a large junction and it has relatively limited visibility from some positions. However, I observed on my site visit that Curload Road is restricted to 30 miles per hour, there is relatively good visibility when approaching the junction from both directions on Curload Road and there is a reasonable turning area at the junction. It would therefore not be particularly impractical or unsafe for vehicles to use this junction instead of the track. Furthermore, I observed on my site visit that where the track meets the Lane/Drove, there is limited

turning space available for vehicles heading to or coming from the north-east due to existing boundary treatment and the width of the Lane/Drove. Accordingly, some vehicles going to or coming from that direction are likely to use the highway junction in any event and irrespective of the appeal proposal.

11. Use of the track for vehicles serving the nearby B1/B8 units could result in some noise and disturbance to future occupiers of the development. However, access to the B1/B8 site is somewhat restricted, the surrounding highway network generally involves narrow rural roads, and the submitted evidence indicates that the number of B1/B8 units served by the track is relatively limited. Accordingly, it seems to me that the size and number of vehicles using the existing track to access the B1/B8 units would not be particularly significant, including with respect to the distribution use. Those units' operating hours are also restricted by a condition of permission 36/2005/022. Furthermore, the new dwellings would be partly screened from the track by the proposed outbuildings and a large tree, which I observed on my site visit is located between the side of the proposed dwellings and the track. Noise disturbance from vehicles using the track would therefore not be unacceptable.
12. For the above reasons, I conclude that the location or siting of the building would not make it otherwise impractical or undesirable for the building to change from agricultural to residential use, with particular regard to access, highways, economic benefits of nearby commercial uses, and noise disturbance to future occupiers of the dwellings. From the evidence before me, I find that the appeal proposal would also be consistent with the provisions of the Framework in relation to developments functioning well and adding to the overall quality of the area, not just for the short term but over the lifetime of the development.

### *Flooding*

13. The Framework sets out that applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments. In relation to flood risk, minor development is defined in the PPG as, amongst other aspects, development that does not increase the size of the building, for example, alterations to the external appearance.
14. The appeal proposal involves a change of use and would not increase the size of the building. The sequential and exception tests are therefore not required. However, situated within Flood Zone 3, the site is located in Stanmoor which has a high risk of flooding, and the PPG defines dwellings as 'more vulnerable'. Accordingly, a site-specific flood risk assessment (FRA) is required and the Framework indicates that development in such areas should only be allowed in certain circumstances.
15. Although the submitted FRA is relatively concise, further details are provided in the appellant's appeal statement. Together, these documents identify flood risk at the site and in the surrounding area, set out possible sources of flooding, including from nearby rivers and the Stanmoor Main Drain adjacent to the site, and confirm that Stanmoor is not an active floodplain. Historical flooding events are also detailed, existing flood defences serving the surrounding area are identified and considered in relation to climate change, and details on land levels and the gravity drainage of water in the adjacent drain are provided. The FRA sets out that the proposed finished floor level will be 225mm higher than

the existing, all electrical sockets and outlets will be a minimum of 450mm above the finished floor level, and refuge could be provided on the proposed first-floor. The development would also reduce roof- and surface-water run-off which is currently discharged straight onto the ground. This would be achieved by a reduction in the amount of roof area, installation of rainwater collection tanks and soakaways, and returning the garden area to permeable ground.

16. From the evidence before me, it seems to me that the appeal proposal would reduce surface water run-off by incorporating sustainable drainage, would not increase the risk of flooding in the surrounding area, and would be sufficiently flood resilient and resistant. With the site continuing to have two access points, there would be sufficient access and escape routes, and residual risk could be safely managed by, for example, the first-floors providing a refuge area. I also note that the Environment Agency were consulted but did not object.
17. For the above reasons, I conclude that the flooding risks on the site do not indicate that the proposed development would be unacceptable, nor undesirable in this location. I find that it would also be consistent with the provisions of the Framework in relation to planning and flood risk, including specifically with regard to allowing development in areas at risk of flooding.

### **Conclusion and Conditions**

18. For the above reasons, the appeal is allowed.
19. Any planning permission granted for the change of use of agricultural buildings to dwellinghouses under Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO is subject to the condition Q.2(3) which specifies that the development shall be completed within a period of 3 years starting with the prior approval date. Paragraph W(13) of Part 3 of Schedule 2 of the GPDO also allows the granting of prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Council has suggested that the plans should be conditioned. However, as I have listed the submitted plans in my decision above, it is not necessary to include a condition listing them separately. A condition requiring surfacing of the track, as suggested by the appellant, is unnecessary in this case because I have found that use of the track as it currently exists would not give rise to unacceptable noise disturbance to future occupiers of the development.

*Tobias Gethin*

INSPECTOR