

APPEAL DECISIONS – 31 JAN 2018

Site: SAINSBURY SUPERMARKET, HANKRIDGE WAY, TAUNTON, TA1 2LR

Proposal: Display of 1 No. illuminated totem sign, 1 No. non-illuminated totem sign, 1 No. illuminated fascia sign and 1 No. non-illuminated wall sign at Sainsburys, Hankridge Farm, Hankridge Way, Taunton

Application number: 48/17/0010A

Reasons for refusal: It is considered that the internally-illuminated fascia sign "C", scaling 1600mm x 1000mm, by reason of its siting and illumination, results in an incongruous appearance and disharmony with the architectural features of the building, to the detriment of the visual amenity of the building and the surrounding area and would set an undesirable precedent for other signage to go on the building. The signage is therefore contrary to the adopted Taunton Deane Core Strategy Policies DM1 and CP8, and Site Allocation and Management Plan policy D3 (Outdoor Advertisement & signs), Taunton Deane Advertisement Policy Guidance and the NPPF. This individual sign is therefore refused.

Appeal Decision: Allowed

Site: GREENACRE FARM, RALEIGHS CROSS ROAD, COMBE FLOREY, TAUNTON, TA4 3JQ

Proposal: Prior approval for proposed change of use from agricultural building to dwelling house (Class C3) and associated building operations at Greenacre Farm, Raleighs Cross Road, Combe Florey

Application number: 11/17/0011CQ

Reasons for refusal: The Local Planning Authority considers that the proposed development is not permitted development as it does not comply with the limitations or restrictions set out in Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. In particular, it is evident that the works necessary to create the dwelling from the structure on site would not fall within the scope of that permissible under Part Q(b). In addition the proposed development would fail to comply with conditions Q2 - (1) (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 in that the occupant's amenities would be harmed through noise disturbance.

Appeal Decision: Dismissed



Appeal Decision

Site visit made on 5 December 2017

by **J E Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC**

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

Decision date: 22 December 2017

Appeal Ref: APP/D3315/Z/17/3182210

Sainsbury's Store, Hankridge Farm, Hankridge Way, Taunton TA1 2LR

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Sainsbury's Supermarkets Ltd against the decision of Taunton Deane Borough Council.
 - The application Ref 48/17/0010/A, dated 7 February 2017, was refused by notice dated 12 July 2017.
 - The advertisements proposed are 1 no. illuminated totem sign, 1 no. non-illuminated totem sign, 1 no. illuminated fascia sign and 1 no. non-illuminated wall sign.
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Decision

1. The appeal is allowed and express consent is granted for the display of 1 no. illuminated fascia sign as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations.

Procedural Matter

2. Consent was granted by the Council for three of the four signs proposed and described in the heading above. This decision relates only to the sign which was refused consent, which is the 1 no. illuminated fascia sign.

Main Issue

3. The powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. The Council has expressed no concern over public safety and I am satisfied there would be no adverse implications in this regard. Therefore, the main issue in this appeal is the effect of the proposed sign on the amenity of the area.

Reasons

4. The Sainsbury's store is located on the Hankridge retail park and lies alongside the M5 motorway. Vehicular access for customers and the main car park are on the south side of the store building. This car park also serves other units immediately to the west of the Sainsbury's store.
5. The large store building is predominantly single storey with a prominent pitched roof. It has an arch shaped glazed central entrance set at the base of a low tower-like structure which serves to highlight and identify the store entrance. Above the glazed archway the tower feature is mainly of plain buff

- colour bricks with darker bricks defining the corners. There is a rendered band around the top of the entrance feature, immediately below the pyramidal roof, and to which the store signage consisting of large individual letters is fixed.
6. The sign for which consent is now sought is already in place. It is positioned centrally on the brick façade of the entrance feature, below the rendered band. The sign is considerably smaller than the signage above and different in design and appearance as it is rectangular with an aluminium finish, with incised lettering and inset logo.
 7. Although the sign does not follow the style of other signage on the store building, the modest size and central position of the sign are such that it does not diminish the impact of the entrance feature. The illumination around the edges of the lettering and to the edge and face of the logo, at a maximum illumination level of 350 cd per sq m, is not excessive in this location.
 8. The subject sign masks a small section of the top of a narrow, vertical raised-brick feature within the brick façade. This feature runs from the apex of the glazed entrance to the rendered band. Whilst the sign stands slightly proud of the façade as a consequence, the effect on the building is modest and not sufficient on its own to warrant refusal of the proposal.
 9. The store building is within a retail location with other retail facilities nearby. The Council does not identify any particular viewpoints outside the retail area from which it considers the sign to be intrusive. The main area from which the sign is visible is the car park serving the host store and other stores adjacent to it and from approaches to these stores. As well as the store signage, various other signs including those of the store's petrol filling station and signage on the gables of the units to the west of the store are clearly visible from the car park and beyond. Given the overall level of signage and the retail and commercial nature of the immediate environment, I find the sign for which consent is sought does not have any appreciable negative impact on the building or its surroundings and would not create visual clutter or be unduly prominent. Accordingly, it does not harm the visual amenity of the area.
 10. The Council's reasons for refusal refer to policies DM1 and CP8 of the Core Strategy and Policy D3 of the Site Allocations and Management Plan; the latter relates specifically to outdoor advertisements and signs. In my determination of this appeal, the Council's policies have not of themselves been decisive but have been considered as part of my deliberations. The sign does not conflict with these policies. I have also considered the Taunton Deane Advertisement Policy Guidance of June 2009 and ADV/9 of this document which is specific to business park locations. However, the relevance of the guidance to the appeal is limited given the strong retail character of the site and its surroundings.
 11. The appellant has provided me with an appeal decision which relates to a site in Sutton Coldfield but this has not been a determining factor in my decision.

12. For the reasons given above I conclude that the appeal should be allowed.
The Council has not suggested any additional conditions to the five standard conditions and none are required.

J E Tempest

INSPECTOR



Appeal Decision

Site visit made on 9 January 2018

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 19th January 2018

Appeal Ref: APP/D3315/W/17/3184348

**Greenacre Farm, Raleighs Cross Road, Combe Florey, Taunton, Somerset
TA4 3JQ**

- 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 appeal is made by Mr Stanley Dusting against the decision of Taunton Deane Borough Council.
 - The application Ref 11/17/0011/CQ, dated 24 May 2017, was refused by notice dated 17 July 2017.
 - The development proposed is change of use of agricultural building to a dwelling house (Class C3), and for associated operational development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning Practice Guidance (PPG) advises that the starting point for Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) is that the permitted development rights grant planning permission, subject to the prior approval requirements. However, it is necessary to determine whether the proposal falls within permitted development. Class Q of the GPDO states that development consisting of Q(a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order¹; and Q(b) building operations reasonably necessary to convert the building, is permitted development.
3. Where development is proposed under Class Q(a) together with Class Q(b), it is permitted subject to the condition under paragraph Q.2 (1) that before beginning the development, an application must be made to the local planning authority for a determination as to whether the prior approval will be required as to (a) transport

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and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building. An assessment relative to prior approval requirements under paragraph Q.2(1) is only necessary if it is firstly determined that the proposal would be permitted development under Class Q.

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

<https://www.gov.uk/planning-inspectorate>

4. The Council considers that the works necessary to create the dwelling from the structure on site would not fall within the scope of that permissible under Part Q(b). It also considers that the occupant's amenities would be harmed through noise disturbance.
5. There is no dispute between the parties that the current proposal for change of use and operational development would otherwise meet the requirements of Schedule 2, Part 3, Class Q, paragraphs Q.1(b)- (h) and (j)-(m) of the GPDO. Based on the evidence before me, together with my observations of the building and its surroundings, I have no reason to take a different view in terms of those Class Q requirements.
6. I have the date of the application from the appeal form as the date on the application form appears to contain typographical errors.

Main Issues

7. Taking into account the above, the main issues are:
 - whether the proposal would be permitted development, with regard to whether the requirements of Schedule 2, Part 3, Class Q would be met; and
 - if permitted development and not excluded by Q.1, whether or not prior approval is required and the proposal would be acceptable in relation to the matter set out in paragraph Q.2(1)(b) of the GPDO.

Reasons

8. Paragraph Q.1(i) of the GPDO states that development is not permitted by Class Q if the development under Class Q (b) would consist of building operations other than: the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling.
9. The agricultural building in question is a steel framed structure with a shallow pitch roof. It has timber purlins within the steel frame to support the cement fibre corrugated roof. The east elevation is mainly open and the north elevation is open all along its top half and within one section of the steel frame. In addition the south elevation is open all along the lower section and the timber boarding is spaced so that there is an opening between each piece of it. The steel uprights are located on a concrete floor. The adjoining agricultural building would be demolished as part of the proposal.
10. Class Q(b) relates to building operations reasonably necessary to 'convert' the building. The appellant's submission describes how the steel frame, timber boarding, steel sheeting, blockwork and roof covering of the existing building would be retained. The timber boarding would need to be supplemented with a weatherproof and insulated partition behind it. The large openings on 3 sides would be glazed with windows and doors and a first floor would be inserted within the building.
11. The Planning Practice Guidance (the PPG) refers to some building operations being permitted under Class Q (b), including the installation of windows, doors and exterior walls to the extent reasonably necessary for the building to function as a dwelling house. The PPG also states that *"It is not the intention for the permitted development right to include the construction of new*

structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right”.

12. There is no dispute between the parties that the submitted structural report indicates that the building is structurally strong enough to take the loading of the proposed works. However, I need to have regard to the extent of works necessary for the agricultural building to function as a dwelling. I acknowledge that substantial works could fall under the scope of Class Q (b), but taking into account the court judgement² it is whether the works comprise “conversion”.
13. In this case, the building before me would not be capable of functioning as a dwelling without the building work outlined above which includes the construction of substantial areas of glazing to 3 of the walls and a weatherproof partition behind the timber boarding. I acknowledge that many agricultural buildings have large openings in them related to their functions which could have windows and doors inserted into them. Nevertheless, in this the case the openings constitute significant sections of 3 of the walls.
14. The appellant states that the amount of wall area to be constructed would be less than that attributed to the case, in the court judgement cited above. The judge in that case did state that “*In many permitted developments the work might be extensive yet that does not thereby disqualify a development from automatic permission*”. However, the judgement does go on to state “*I thus accept the analysis that the extent of the works is a relevant but not dispositive consideration*”. Even though it may be possible to retain the cement fibre roof and the existing walling materials I consider that the works described in this case would be so extensive and fundamental as to exceed what could reasonably be considered as a conversion.
15. I conclude that, based on the evidence before me, the proposal would not satisfy the requirements of Schedule 2, Part 3, Class Q of the GPDO and is therefore not development permitted by it.

Prior Approval Matters

16. Given my conclusion that the proposal would not be development permitted under Schedule 2, Part 3, Class Q of the GPDO, there is no need for me to consider the prior approval matters as it would not alter the outcome of the appeal.

Conclusion

17. For the reasons given above I conclude that the proposal is not permitted development and that the appeal should be dismissed.

D. Boffin

INSPECTOR

² Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

APPEALS RECEIVED – 31 January 2018

Site: NORTH STREET, WIVELISCOMBE, TAUNTON, TA4 2LB

Proposal: Outline Planning Application with all matters reserved, except for means of access, for the erection of up to 130 dwellings with public open space, landscaping and sustainable drainage system with vehicular access point on land at North Street, Wiveliscombe

Application number: 49/17/0007

Appeal reference: APP/D3315/W/17/3189981

Start Date: 15 January 2018
