

Appeal Decision

Site visit made on 16 August 2016

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FHE

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

Decision date: 22 September 2016

Appeal Ref: APP/T3725/W/16/3148013

Valley Farm, Valley Lane, Lapworth, Warwickshire B94 6HB

- 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 & Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Ms Annette Bucknall and Mr David Yelloly against the decision of Warwick District Council.
 - The application Ref W/15/1944, dated 10 November 2015, was refused by notice dated 29 January 2016.
 - The development proposed is an application for prior approval for a proposed change of use from an agricultural building (used for storage and workshop) to a dwellinghouse (Use Class C3) and associated building operations.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal is unclear in the application form. Therefore in the interests of clarity I have used the description provided in the Council's Decision Notice and which was also cited in the appellants' grounds of appeal.
3. As described, the proposal would involve a change of use of an existing building to a single residential dwelling by the carrying out of various works of operational development to facilitate its conversion. I have therefore considered the appeal on the basis that it seeks prior approval for development under Class Q. (a) (use) and (b) (building operations) of the Town & Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
4. As the application is for prior approval under Schedule 2, Part 3, Class Q of the GPDO, the policy on Green Belts as prescribed in the National Planning Policy Framework is not relevant in the determination of this appeal.

Main Issue

5. The main issue is whether sufficient information has been provided to demonstrate that the proposal is permitted development under Class Q, both in terms of the use (paragraph (a)) and the building operations reasonably necessary to convert the building to a dwelling house (paragraph (b)).
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Reasons

Use – paragraph Q.(a)

6. The appeal building comprises a brick built barn, located within a cluster of other buildings of similar age and construction. The prior notification sought to change the use of the building from agriculture to a dwelling and identified the construction works necessary.
7. In determining whether change of use from an agricultural building to a residential dwelling is permitted development the existing use of the building must be as specified in the permitted development right at the time the proposed change of use is considered. In addition, paragraph Q.1 of Class Q lists relevant criteria against which a proposal must be assessed; failure to meet any of these criteria means that it is not permitted development. In particular, the relevant criteria require that the use of the building must have been solely for agricultural purposes as part of an established agricultural unit on 20 March 2013, or in the case of a building which was in use before that date but was not in use on that date, when it was last in use.
8. The Council's Decision Notice states that "The scheme is considered to fail on Q.1(a) 'Development not Permitted' because, irrespective of any past agricultural uses, the building in question is no longer in agricultural use and is in use as a stable, a non agricultural use. The scheme therefore fails to be considered as permitted development."
9. The Council indicate that an officer site visit during the determination of the application suggested that the building was in use as stables, an equestrian use, with no known agricultural uses taking place on site. Therefore, the Council's view that as the building is currently not used for the purposes of agriculture then development provided by Class Q is not permitted. At my site visit I also observed that the building was in use (at least in part) as a stable with associated tack room, which is a non-agricultural use.
10. The appellant has submitted a detailed Supporting Statement and Statutory Declaration (SD) from a contractor who has undertaken work at Valley Farm since 1992. This indicates that the farm was in use as an agricultural holding up to 2002 for the rearing of livestock, and the appeal building (barn 1) used for the storage of hay, straw and other equipment. The property was subject to a transfer in ownership in 2002 where it continued in use as an agricultural holding for pig rearing with the appeal building being used for feed storage and tractor and machinery storage. The SD indicates that this use continued up to July 2014 when the property was sold to the appellants. The appellants indicate that the building is now in part use for the stabling of a horse.
11. In the absence of any other evidence to the contrary I find that the weight of the available evidence is that any change in use of the building from agricultural to equine use did not occur until at least July 2014. I therefore find that as a matter of fact and degree that the evidence is sufficient to demonstrate that the building was in agricultural use on 20 March 2013 associated with an established agricultural unit. As a result, it complies with the restriction contained within paragraph Q.1(a) of the GPDO.
12. Paragraph X, Schedule 2, Part 3 of the GPDO defines "agricultural building" as being a building (excluding a dwellinghouse) used for agriculture and which is

so used for the purposes of a trade or business. Although the building was in agricultural use on 20 March 2013, the evidence from the Council, the SD and from my observations at my site visit suggests that the use of the building has subsequently changed to a non-agricultural use. There is no evidence to suggest that the building is currently in use for the purposes of an agricultural trade or business. Consequently, the current use of the building is not that specified in the permitted development right. For the Class Q (agricultural to residential) right to apply, the building must be in agricultural use at the time the proposed change of use is being considered.

13. The appeal building is no longer in agricultural use and as such I conclude that Class Q permitted development right does not apply.

Building operations – paragraph Q.(b)

14. The application also relates to carrying out of various works of operational development to facilitate its conversion. Although not specifically referred to as a reason for the refusal of prior approval in the Council's Decision Notice, it is necessary to consider whether sufficient details of the building operations to convert the building to Use Class C3 (dwelling house), as required under paragraph Q.1(i), are provided, and whether prior approval of the Council would be required in respect of the considerations required by paragraph Q.2(1) (a) to (f).
15. The application contains a letter from Consulting Civil and Structural Engineers that confirms that the building is capable of conversion to a dwelling and no major structural work is identified. It was also clear from my observations at the site visit that the structure of the appeal building is capable of functioning as a dwelling. Therefore, in the absence of any other evidence to the contrary, I have no reason to find that new structural elements would be required.
16. The Council consider that the transportation and highways impacts of the development are acceptable; no noise impacts are identified; there are no contamination risks associated with the site, and there are no undue flood risks. Consequently I have no evidence to suggest that prior approval would be required in relation to paragraphs Q.2(1) (a) – (d). I agree with the Council that the location of the building would be acceptable and would not be incompatible with nearby land uses. I also agree that the design and external appearance of the proposed dwelling would be in keeping with the design of the existing building and would be appropriate for this location. Consequently, the proposal would meet the requirements of Q.2(1) (e) and (f).
17. I therefore conclude that the proposed works would satisfy the requirements of paragraph Q.1(i) and that prior approval would not be required in respect of the items set out in paragraph Q.2(1) (a) to (f). Consequently, building operations necessary to convert the building would be permitted development under Class Q(b) of the GPDO

Other matters

18. The appellants have drawn my attention to other appeal decisions relating to prior approval under Class Q of the GPDO. However, I do not have full details of the nature of the proposals or the circumstances relating to these appeals. Consequently, I cannot be sure that these are representative of the

circumstance in this appeal and, in any case, I have determined this appeal on its own merits.

Conclusion

19. Notwithstanding my findings regarding the building operations necessary to convert the building, the proposed change of use would not be permitted development under Class Q. Therefore, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR