
Appeal Decision

Site visit made on 14 September 2016

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 05 October 2016

Appeal Ref: APP/D0840/W/16/3149769

Small Barn, Calamankey Farm, Longdowns, Penryn TR10 9DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Chris Davidson against the decision of Cornwall Council.
 - The application Ref PA15/08312, dated 2 September 2015, was refused by notice dated 16 November 2015.
 - The development proposed is conversion of existing agricultural barn to domestic dwelling under Class Q of GDO 2015 to include 3 bedrooms.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Chris Davidson against Cornwall Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - i) whether or not the proposed development would constitute permitted development in respect of Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO); and, if it would, then
 - ii) in respect of paragraph Q.2(1) of Schedule 2, Part 3 of the GPDO, whether the proposal would pose a contamination risk.

Reasons

4. Schedule 2, Part 3, Class Q of the GPDO sets out that development is classed as permitted development if it consists 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) of the Schedule to the Use Classes Order; and building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of that Schedule. This is subject to a number of situations where such development is not permitted, listed under Q.1, and to conditions in Q.2 setting out the matters for which an application to the local planning authority for determination as to whether the prior approval of the authority will be required.
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5. It must firstly be established as to whether the proposal would be within the scope of permitted development.
6. The Council has not raised any issues with regard to the exclusions under Q.1. However, Class Q also relates to the change of use of any land within the curtilage of the building concerned. In this respect, the original planning application form states the floor space of the building concerned to be 35 square metres (sqm) and that the area of land within its curtilage which is proposed to change use as 120 sqm. The definition of curtilage set out in paragraph X of Schedule 2, Part 3 of the GPDO is an area of land around the building which would be no larger than the land area occupied by the building. Even taking account of the thick walls, which adds to the overall footprint, and based on the proposed site shown on Dwg No 05, I cannot be certain that the proposal would meet that definition of curtilage and therefore that the proposed development would relate to land all of which is within the curtilage of the building concerned.
7. Notwithstanding this, I saw that alterations had taken place, including a new roof and rooflights and works to enable the roof to be all at the same level, as well as the lowering of the floor which was concreted, which reflected those elements of the proposal as shown on the submitted plans. Prior approval cannot be granted retrospectively and I understand from the submissions that those works have taken place since the Council issued its decision on this proposal. Even if, as is claimed by the appellant, those works do not require planning permission in their own right whilst the building continues to have an agricultural use, I have also had regard to paragraph Q.1(f) of Class Q. This states that development is not permitted by Class Q if development under Class A(a) or Class B(a) of Part 6 of Schedule 2, concerning agricultural buildings and operations, has been carried out on the established agricultural unit since 20 March 2013. As such, the alterations concerned, which go beyond solely repairing the building, render the development not to be permitted under Class Q.
8. For the above reasons, I am unable to conclude that the proposed development would be permitted development.
9. Consideration in relation to prior approval is a follow-on condition stage under paragraph Q.2, which can therefore only apply if the development would otherwise be permitted development. In light of my conclusion in respect of it not being permitted development, no further consideration is necessary in respect of the conditions in paragraph Q.2.

Conclusion

10. For the reasons given above, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR