
Appeal Decision

Site visit made on 19 September 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 05 October 2016

Appeal Ref: APP/H1840/W/16/3152992

Little Meadows Farm, Little Meadow, Pebworth Road, Pebworth CV37 8XE

- 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 Gloucestershire County Council against the decision of Wychavon District Council.
 - The application Ref GPDQ/16/00611/GPDQ, dated 29 February 2016, was refused by notice dated 4 May 2016.
 - The development proposed is "notification for prior approval for a proposed change of use of agricultural building to a dwellinghouse (Class C3) and for associated operational development".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address and description of development provided in the application form have been updated in subsequent documents. The site address and description of development provided in the Council's decision notice are precise with respect to the proposal before me and I adopt them accordingly.
 3. The appellant submitted a notification for prior approval under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for change of use of the agricultural building to a residential use. 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 Order; and Q(b) building operations reasonably necessary to convert the building, is permitted development.
 4. Where development is proposed under Class Q(a) together with Class Q(b), it is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building.
 5. There is no dispute that the current proposal meets the requirements of Schedule 2, Part 3, Class Q, paragraphs Q.1 (a) to (h) and Q.1 (j) to (m). However, the Council refused the notification for prior approval because it
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considered that the proposal would not accord with paragraph Q.1 (i) and Planning Practice Guidance (PPG)¹ by reason of insufficient information to conclude that the building is structurally sound and whether the conversion can take place without works to the structural elements of the building.

6. A number of appeal decisions² have been drawn to my attention relating to the interpretation of paragraph Q.1 (i) and the PPG, including accompanying information relating to the proposals. I have taken the decisions into account and in most cases there are some parallels with the proposal before me, but also differences with respect to the proposal, the individual circumstances of the agricultural building or the conversion works required. Other appeal decisions drawn to my attention which preceded Class Q or the publication of the PPG are less relevant to this appeal³. In any case, I have reached my own conclusions on the appeal proposal on the basis of the evidence before me.

Main Issues

7. The main issues are:

- whether the proposal would be permitted development, with particular regard to whether the specific requirements of paragraph Q.1. (i) of the GPDO would be met.
- If so, whether or not prior approval is required having regard to the assessment of transport and highways impacts, noise impacts, contamination, flooding, location or siting, and the design or external appearance of the building.

Reasons

Whether the proposal would be permitted development

8. The appeal site consists of a Dutch barn and adjacent enclosed yard within an established agricultural unit and appears to have been recently in agricultural use. The barn comprises a steel frame with corrugated galvanised steel sheets to three of its four sides and to the curved steel truss roof. The fourth side, the western elevation facing into the yard, is unenclosed. The barn and associated yard has an existing access from the road which is independent from the main accesses to the other buildings within the Little Meadows Farm complex and a disused cottage to the west. A thick layer of hay currently covers the internal footprint of the building and it is unclear what lies beneath it.
9. The GPDO states at paragraph Q.1.(i) that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or external walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
10. The PPG states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling.

¹ What are permitted development rights?, Paragraph: 105 Reference ID: 13-105-20150305 (Revision date 05 03 2015)

² APP/Y2810/A/14/2226223 & 2226245, APP/H1840/W/15/3003352APP/N2739/W/15/3003584, APP/P0240/W/15/3005436, APP/L2630/W/15/3010440, APP/E2001/W/15/3012005, APP/G1630/W/15/3140166.

³ APP/H1515/A/14/2225033, APP/N1730/A/14/2225012, APP/N1215/A/14/2225593.

Nonetheless, it indicates that, for the building to function as a dwelling, some building operations which would affect the external appearance of the building and which would otherwise require planning permission would need to be undertaken and should be permitted. The PPG further clarifies that it is not the intention of the permitted development right to include the construction of new structural elements for the building. Consequently, it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide the residential use that the building would be considered to have the permitted development right.

11. The existing steel frame of the building consists of 10 columns which support the curved roof trusses creating a barn that is 3 bays wide and 2 bays deep. Additional support is provided by diagonal struts, lattice purlins and a high level collar / tie beam. The existing wall and roof sheets are bolted to the structural frame with additional gutters and downpipes to the west and east elevations.
12. The application includes a structural report prepared by Bevans Chartered Surveyors in February 2016. This confirms that the main steel frame is in good overall condition with no significant signs of deformation, misalignment or being out of plumb and only surface corrosion to the structural steel columns and the rest of the frame that does not affect its structural integrity. Minor localised repairs are recommended to fixing plates, purlins and struts where fixing bolts are missing. Some deflection was identified on the curved brace on its lower edge and some denting of cladding, but the overall steel frame shows no obvious signs of structural movement or misalignment. The report suggests that the condition and alignment of the steel frame does not indicate that any substantial works would be required to the foundations of the barn, which are concealed and were not inspected. Based on my observations of the barn, I have no reason to take a different view with respect to its existing condition.
13. The submitted plans identify conversion of the barn to create a two-bedroom dwelling on two levels. The steel frame would be retained and would be set behind cladding in a similar manner to existing. The installation and replacement of exterior walls, roofs, doors and windows, together with provision of water, drainage, electricity, gas or other services would fall within building operations reasonably necessary for the building to function as a dwellinghouse. The structural report concludes that it would appear feasible and practical to convert the existing building to residential use without any significant structural alteration, demolition or re-construction.
14. Notwithstanding the above, in considering the suitability of the existing building for conversion to residential accommodation, the structural report indicates that it would be advisable to provide diagonal cross bracing to at least one bay of the steel frame in order to provide stability against horizontal forces such as wind loading. I consider that this introduces reasonable doubt that the existing building would be structurally strong enough, without the cross bracing, to take the loading that comes with the external works to provide for residential use. I consider that diagonal cross bracing to reinforce the steel frame would consist of structural alterations and would fall outside of those permitted by Class Q(b) and Class Q.1(i) having regard to paragraph 105 of the PPG.
15. I note the appellant's suggestion that the extensive internal works proposed do not need to be covered by the permitted development right, by reference to s55 (2)(a) of the Town and Country Planning Act 1990 (TCPA). This states that

“the carrying out for the maintenance improvement or other alteration of any building of works which (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building” does not constitute development. Consequently, works falling within s55 (2)(a) of the TCPA do not constitute development and so do not need to be covered by the permitted development rights granted by Class Q of the GPDO.

16. However, s55(2)(a) of the TCPA only applies to works of “maintenance, improvement or other alteration”, whereas Class Q relates to works reasonably necessary to convert the building. Consequently, there is a difference between works that affect only the interior of the building falling under s55(2)(a) of the TCPA, compared to structural alterations that are development undertaken internally as part of a material change of use of a building and / or which affect the external appearance of the building. Diagonal cross bracing to reinforce the steel frame clearly falls within the latter category and therefore comprises building operations which constitute development in accordance with the definition within s55 of the TCPA. There is also uncertainty as to whether additional foundations or alterations to those existing would be necessary, works also capable of exceeding s55 (2) (a) of the TCPA. The alterations to the building therefore necessitate consideration relative to Class Q of the GPDO.
17. In order to benefit from the permitted developments rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must only involve building operations reasonably necessary to convert the building in accordance with the definition at Q(b) and Q.1(i). Based on the evidence before me and my own observations of the barn, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to be permitted development under Class Q.
18. I conclude that, based on the evidence before me, the proposed change of use would not satisfy the requirements of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, having regard to the associated guidance within the PPG, and therefore is not development permitted by it.

Prior approval

19. Given my conclusion that the proposed change of use would not be development permitted under Class Q, there is no need for me to consider the prior approval matters as it would not alter the outcome of the appeal.

Conclusion

20. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the local planning authority to consider in the first instance, and cannot be addressed under the prior approval provisions set out previously. The appeal is, therefore, dismissed.

Gareth Wildgoose

INSPECTOR