
Appeal Decision

Site visit made on 13 September 2016

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 11 October 2016

Appeal Ref: APP/H0928/W/16/3153279

Dalefoot, Mallerstang, Kirkby Stephen, CA17 4JT

- 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, Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr & Mrs A Halliday against the decision of Eden District Council.
 - The application Ref 16/0273, dated 24 March 2016, was refused by notice dated 18 May 2016.
 - The development proposed is the change of use of agricultural building to a dwellinghouse (use Class C3) and for associated operational development.
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider that the main issue in this case is whether the proposal would constitute permitted development, and if it would, whether prior approval should be granted.

Reasons

3. The appeal building forms part of the farmstead serving Dalefoot Farm. Whilst the farm is primarily used for sheep, I understand that the appellants have diversified into agricultural contracting and that a bakery business is run from the converted barn adjoining the farmhouse. In addition to those buildings, the farmstead includes: a recently built 2-storey detached house; a single-storey holiday cottage; a converted barn, previously approved for conversion under the prior notification procedure; and, 2 agricultural buildings. The proposal involves the demolition of one of those agricultural buildings and the conversion of the other, the appeal building which was last used as a sheep shed and implements store, to a dwelling.
 4. As a consequence of the *Yorkshire Dales National Park (Designation)(Variation) Order 2012*, as of 1 August 2016, the appeal site and its surroundings now fall within the Yorkshire Dales National Park. *The Town and Country Planning (General Permitted Development)(England) Order 2015* (GPDO) Schedule 2, Part 3, paragraph Q.1.(j) confirms that development is not permitted by class Q if the site is on article 2(3) land, which includes land within National Parks.
 5. However, the appellant has drawn attention to *The National Park Authorities (England)(Amendment) Order 2016* and in particular section 3 *transitional*
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provision regarding permitted development rights for extensions to the Lake District and Yorkshire Dales. It indicates that where conditions (a)-(c) specified in sub-paragraph (2) are met, planning permission granted by the GPDO is saved. Conditions (a) and (b) are met, as the application for prior approval is in respect of Class Q of Part 3 of Schedule 2 of the GPDO and the appeal site is land which became part of the Yorkshire Dales National Park by virtue of the extension that took effect on the 1 August 2016. Condition (c)(ii) is that '*an appeal against refusal of an application for prior approval was made under section 78 of the Town and Country Planning Act 1990 before 1 August 2016, and that appeal was subsequently successful.*' In the case before me, the appeal had been lodged before the 1 August 2016. Therefore, I turn to consider whether the proposal would be development permitted by Class Q indicating that prior approval should be granted and the appeal should be allowed.

6. The appeal building, which faces in a westerly direction, is a single-storey structure with a pitched roof and front/rear gables. Broadly speaking the building has a central bay, with a pitched roof, and an additional lean-to wing to the north and south. The structural support for the roof of the central bay is provided by 6 metal portal frames. As part of the proposed works the eastern section of the building would be demolished to make space for a rear garden. The remaining, western, section of the central bay would comprise 4 of the portal frames; one at each end of the building and 2 intermediate frames. At present, a metal beam spans from each of those intermediate frames to a reinforced section of the side wall of the southern lean-to wing and supports its roof. However, as part of the proposed works the southern lean-to would be reduced in width. This would involve removing the southern sidewall of the lean-to, thereby removing the structural support for the 2 intermediate roof beams at their southern ends. New structural elements would be required to support those beams, the details of which have not been provided.
7. Permitted development falling within Class Q(b) is development consisting of building operations reasonably necessary to convert the building referred to in paragraph Q(a) to a use falling within Class C3 (dwellinghouses) of that schedule. The *Planning Practice Guidance* (PPG) indicates that the permitted development right under class Q allows for the installation or replacement of, amongst other things, exterior walls. However, the PPG confirms that it is not the intention of the permitted development right to include the construction of new structural elements for the building¹. I consider it likely that the proposed conversion works would necessitate the provision of new structural elements to support the roof of the southern lean-to wing of the proposed dwelling. Consequently, it would be unlikely to amount to permitted development, with reference to paragraph Q.1.(i)(i) of Part 3, Schedule 2 of the GPDO.
8. The pitch of the roof of the central bay of the existing building is steeper than the pitch of the roofs of the lean-to wings on either side. This appears to me to be a direct result of the arrangement of the supporting structural beams beneath. As identified by the Council, this profile is not accurately reflected in the details of the existing structure shown on application drawing no. ps1146.01 rev a. Furthermore, the drawing indicates that the roof of proposed building would be altered from that which exists on site, such that the pitch of the central bay would be the same as those of the lean-to wings. Whilst in

¹ PPG paragraph ID: 13-105-20150305.

their grounds of appeal, the appellants suggest that the roof would not be altered, no revised drawings have been provided and, as I have indicated, that position is not supported by the details of the proposal set out in the application submitted to the Council upon which my consideration of the appeal must be based. I have not been provided with any evidence to show that this modification of the roof profile could be achieved without the provision of new structural elements, which to my mind, may well be required. This being the case, the proposal would be unlikely to amount to permitted development, with reference to paragraph Q.1.(i)(i) of Part 3, Schedule 2 of the GPDO.

9. I conclude, for the reasons set out above, taken separately or together, that the proposal would be unlikely to amount to development permitted by Class Q.

Other matters

10. Whilst the appellants' architect may be correct that the existing structure is adequate to support a replacement roof, that is of little assistance, as that is not what is proposed in the case before me, which involves modifications to the existing roof and its structural support.
11. The proposed conversion would involve the erection of a number of internal walls. Based on what I have read and seen, it appears unlikely that they are required as structural support for the building. Rather it appears that they are necessary to partition the internal space along domestic functional lines, for example, separate bedrooms and living rooms. To my mind, with reference to section 55(2)(a) of the *Town and Country Planning Act 1990*, they would be unlikely to constitute development requiring planning permission.
12. The appeal building is a large single-storey agricultural building of a utilitarian design suited to its function and not out of place as part of the Dalefoot Farm farmstead, which includes a variety of building styles, designs and materials. Under these circumstances, whilst the converted building would not have the appearance of other dwellings within the site, it would retain much of the character of the original building and would not materially alter the character or appearance of the locality. With reference to paragraph Q.2.(f) of Part 3, Schedule 2 of the GPDO, I consider that the design and appearance of the building would be acceptable and in this respect the scheme would not conflict with the statutory purposes of National Parks, set out in *The National Parks and Access to the Countryside Act 1949 (as amended)* or the terms of the PPG.
13. The appellant has made reference to 2 other conversions for which the Council granted prior approval; the barn immediately to the south of the appeal building and a group of agricultural buildings at White Bracken. However, each case must be considered primarily on its own merits and, whilst I do not know the full circumstances of those cases, it appears that they are not directly comparable to that before me. I have no reason to believe that those approved conversions would be likely to require the provision of new structural elements. I give them little weight.

Conclusions

14. For the reasons given above, I conclude overall that the proposal would be unlikely to amount to development permitted by Class Q, prior approval should not be granted and the appeal should be dismissed. It follows that the scheme

would not meet condition 2(c)(ii) and so it would not benefit from the transitional provision set out in section 3 of *The National Park Authorities (England)(Amendment) Order 2016*.

I Jenkins

INSPECTOR