
Appeal Decision

Site visit made on 6 September 2016

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 13 October 2016

Appeal Ref: APP/F2605/W/16/3149757

Freshfields, Harkers Lane, Swanton Morley, Dereham, Norfolk NR20 4PA

- 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 Mrs Susan Keen against the decision of Breckland District Council.
 - The application Ref 3PN/2015/0063/UC, dated 25 October 2015, was refused by notice dated 1 February 2016.
 - The development proposed is the change of use of agricultural building to dwellinghouse.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) provides for the 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 (dwellinghouse) of the Use Classes Order 1987 (as amended). Schedule 2, Part 3, Paragraph W(3) states that a local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any specified conditions, limitations or restrictions. It was on this basis that the Council refused to grant prior approval.

Main Issues

3. The main issues are:
 - (a) Whether the proposal falls within the provisions for permitted development under Schedule 2, Part 3, Class Q of the GPDO, with regard to the use of the building and the proposed curtilage; and
 - (b) If permitted development, whether the transport and highway impacts of the proposal is such as to require refusal of prior approval under Paragraphs Q2(1)(a) and W(3) of the GPDO.
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Reasons

4. The appeal building is situated to the west of the dwelling known as Freshfields at a point where the garden serving Freshfields transitions to an area of fields and paddocks used by chickens and alpacas. The building has a number of stable doors on the north elevation with stalls behind.

Permitted Development

5. In terms of whether the proposal constitutes permitted development, the only areas of dispute between the appellant and the Council relate to the building's use as an agricultural building and the proposed curtilage. I have not been presented with any evidence to indicate that the proposal does not constitute permitted development for any other reason, so have focused on the areas of dispute.
6. In terms of the building's use, Class Q requires the use of a building to be in agricultural use at the time that the change of use is being considered. In addition, there is a requirement in Paragraph Q1(a) that the building was used solely for agricultural use as part of an 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. Paragraph X of the GPDO defines an agricultural building as a building used for agriculture and which is so used for the purposes of a trade or business.
7. At my site visit, it was clear that the building is no longer used for keeping poultry and instead is being used for storage and a workshop, including elements relating to domestic purposes. None of the evidence before me leads me to any contrary view regarding the current use. Since Class Q only permits changes of use from buildings that are currently solely in agricultural use, it cannot apply for this reason alone.
8. I have noted the sworn affidavit produced by the appellant in support of her case that the building was used for the business of breeding chickens and the storage of chicken food and paraphernalia between 1 May 2012 and 5 April 2015. The appellant has also produced a range of documents in connection with this business which are dated within this time period. However, I have also noted that the Council considers that a previous Inspector's decision¹ concerning this building cast some doubt on the claim in the affidavit. This decision, based on a site visit made on 23 December 2013 stated "I understand the building is used at least in part for domestic storage, parking a vehicle and keeping poultry". The Council also observed at their site visit of 9 December 2015 in connection with this change of use proposal that the building was not in solely agricultural use.
9. Even if the appellant is right on the question of the use of 20 March 2013, that would not alter my view regarding the current use, which is critical in deciding this appeal. To conclude on this point, from the evidence before me it is apparent that the building is not currently being used solely for an agricultural use. Therefore, I consider that the Class Q permitted development right does not apply to this building.
10. In terms of the proposed curtilage, the appellant has stated that the original site plan was erroneous and has submitted an amended site plan with the

¹ APP/F2605/X/13/2194364

appeal showing the red line drawn close around the building. The area of land around the building within the red line appears to be no greater than the land area occupied by the building as required by Paragraph X of the GPDO. There is also an area of hardstanding and fencing which relates to the building. If the scheme met all the other requirements of Class Q, it would be open to me to define an appropriate curtilage so as to bring it within the provisions of Class Q. However, as I have found that the proposal would not be permitted development based on the current use of the building, it is not necessary for me to do so.

Transport and Highways

11. Transport and highway impacts is the only issue in dispute between the appellant and the Council under Paragraph Q2(1) concerning prior approval. However, as I have found that the proposal is not permitted development, it is not necessary to consider this issue further.

Conclusion

12. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR