
Appeal Decision

Site visit made on 8 November 2016

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 15 November 2016

Appeal Ref: APP/J1535/W/16/3146745

Greensted Wood Farm, Greensted Road, Ongar, Essex CM5 9LE

- 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 Mr Robert J Cameron against the decision of Epping Forest District Council.
 - The application Ref EPF/2375/15, dated 22 September 2015, was refused by notice dated 18 November 2015.
 - The development proposed is change of use and conversion of agricultural storage barn and curtilage to single dwelling house and curtilage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. This appeal relates to an application made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 3. The application form did not explicitly set out what was applied for; rather this was implicit from the nature of the application form and drawings submitted with the application. The Council set out the procedure and a description on their letter acknowledging receipt of the application. I have used this description as this clearly sets out that applied for.
 4. The appeal form indicates that the appeal is against a failure of the Council to issue a decision within the appropriate period. However, on 18 November 2015 the Council emailed the appellant through his agent to indicate that it considered the proposal fell "outside the remit of the prior approval process" and thus the criteria to be permitted development under the GPDO.
 5. Schedule 2, Part 3, paragraph W(3) of the GPDO indicates the local planning authority may refuse an application where, in the opinion of the authority the proposed development does not comply with any conditions, limitations or restrictions specified in this Part as being applicable to the development in question. I consider that the email of 18 November 2015 represented a notification of such a decision to refuse the application under this provision.
 6. I have therefore considered the appeal as one against the refusal to grant approval under the terms of the GPDO and have set this out in the heading.
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Main Issue

7. The main issue is whether the proposals meet the criteria for permitted development under the GPDO.

Reasons

8. The building the subject of the appeal was granted planning permission in 2011¹. This permission was subject to a number of conditions, including No 1 which states:

The barn building hereby approved shall only be used for agricultural purposes in connection with the agricultural use of the unit at Greensted Wood Farm. It shall not be used for any other purpose, including as a dwelling or as an annexe to the existing dwelling on this unit or for domestic storage.

9. The reason for imposing the condition was stated as:

to ensure the barn is used for agricultural purposes which helps maintain the open character of a large area of agricultural land that lies within in [sic] the Green Belt.

10. Article 3(4) of the GPDO states:

Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order.

11. The main issue therefore is whether condition No 1 is sufficient to exclude the permitted development right under Class Q.
12. The appellant's argument is that as the permission granted by the GPDO post-dates the 2011 planning permission and there is nothing in the 2011 planning permission to exclude any permission granted by the GPDO. As such he considers the proposal represents permitted development under the GPDO.
13. If the development would be contrary to the condition in question it is not permitted development. There is nothing in Article 3(4) to indicate that the restriction only applies to planning permissions granted after the relevant provision of the GPDO came into force; it could equally apply to a planning permission granted prior to that date.
14. It is not necessary for the GPDO to be specifically referred to, and its operation excluded, in any condition for the permission granted under the GPDO to be disqualified. A condition can prevent something which is not 'development', such as landscaping, even though that landscaping, absent the condition, would not need planning permission. The question is, whether the condition, read objectively, restricts the use of the building so that the rights under the GPDO do not apply.
15. The reason for the condition can also be material in this decision. In this case that relates to the protection of the Green Belt, which has long been held to be an important tenet of planning policy. That the permission granted under the

¹ "Retention of storage barn in connection with agricultural enterprise unit including ancillary works" Council Reference PL/EPF/0111/11

GPDO can be exercised in the Green Belt is a separate matter and does not impinge on the reason for the condition.

16. In my view the wording of the condition is clear. It sets out that the building can only be used for agricultural purposes and "It shall not be used for any other purpose". It then goes on to specifically exclude the use as a dwelling (or an annexe) in order to protect the Green Belt. In these circumstances I am satisfied that through the operation of Article 3(4) the condition excludes the rights under Class Q of Part 3 of Schedule 2 of the GPDO and consequently the change of use proposed is not permitted development.

Conclusion

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

RJ Jackson

INSPECTOR