
Appeal Decision

Site visit made on 4 October 2016

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 17th November 2016.

Appeal Ref: APP/P1133/W/16/3154701
Woodlands Farm, Chudleigh, TQ13 0NE

- 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 Mr G Gill against the decision of Teignbridge District Council.
 - The application Ref 16/00839/NPA, dated 18 March 2016, was refused by notice dated 27 May 2016.
 - The development proposed is described as "prior approval notification for change of use of agricultural building under Part 3 Class Q (a & b) & paragraph W to Class C3 dwellinghouse at Woodlands Farm, Chudleigh, TQ13 0NE".
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form gave the address as Lower Barn at SX5820, Woodway Street, Chudleigh, Devon TQ13 0NE. I have simplified this and given the address as it was stated in the Supporting Planning Statement, which was referred to on the application form. I have taken the description of development from this document, as there was no description given on the application form.
 3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) enables certain types of development to take place without the need for specific planning permission, provided certain criteria are met. Provisions exist under Schedule 2, Part 3, Class Q for the change of use of an agricultural building to a dwellinghouse and associated building operations, subject to limitations and conditions.
 4. Paragraph Q.2.(1) of the GPDO states that, where development is proposed under Class Q (a and b), development 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 for certain matters. In other words, development is not permitted by Class Q if the development had begun before an appropriate application had been made to the Council.
-

5. The appellant and the Council agree that the appeal building had been altered before the application for prior approval was made. The alterations include the removal of a water tank from west end of the building and the erection of a lean-to structure on the site of the water tank. Also, the barn has been reinforced with an internal steel frame, bearing onto its own foundations, and the floorboards to the hayloft have been replaced.
6. I saw from my site visit that the development described above has taken place. From the evidence before me¹, it is clear that the development was carried out sometime after February 2014. The Condition Survey² shows that the internal steel frame was in place on the date of the surveyor's site visit, 13 July 2015. Also, photographs submitted with the Contamination Survey³ and the Bat Survey⁴, dated 19 March 2015 and 22 March 2015 respectively, show the lean-to structure and the steel frame were in place on those dates.
7. Given that prior approval cannot be given for development that has already taken place, I need to address this issue first in my decision.

Main Issue

8. In refusing the application, the Council states that, for several reasons, the development does not constitute permitted development. Therefore, the main issue is whether the proposal satisfies the requirements of the GPDO with regard to being permitted development under Schedule 2, Part 3, Class Q.

Reasons

9. The appellant states that the development carried out to date did not physically enlarge the building and would have been permitted development by virtue of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). However, there is no evidence that the conditions and limitations of Class A were met.
10. The appellant also maintains that the works were undertaken more than four years prior to the appeal application being submitted to the Council. However, this is not supported by evidence, in particular, the letter from Perrin and Son which advises they were engaged in February 2014 and concludes that a steel frame would be required to support the structure. In any event, whether or not the development is lawful does not overcome the fact that prior approval cannot be granted retrospectively.
11. It is a matter of fact that development has already taken place and no approval or planning permission has been granted by the Council. The works that have taken place to date go beyond that permitted under paragraph Q.1.(i), which restricts development under Class Q(b) to the installation or replacement of windows, doors, roofs, or exterior walls, or the installation of services and related demolition. It is clear from the Condition Survey (2015) that the steel frame is necessary to ensure the structural integrity of the building. The Planning Practice Guidance advises that it is not the intention of the permitted development right to include the construction of new structural elements for the building. Consequently, had prior approval been applied for the

¹ Letter from Perrin and Son Construction Ltd, dated February 2016

² General works method statement and condition survey, CB Design, dated 25 July 2015

³ Ruddlesden Geotechnical, Phase 1: Preliminary Contamination Assessment Report, 19 March 2015

⁴ Bat Survey, Smallhire Ecology, dated 22 March 2015

development carried out to date, it is unlikely that it would have met the requirements of Q.1.(i) and would not have been permitted development.

12. I have also considered whether the works carried out would fall within section 55(2) (a) of the Town and Country Planning Act 1990. 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. Section 55(2) (a) only applies to works of "maintenance, improvement or other alteration". As explained above, the works have involved the construction of new structural elements to facilitate the conversion. This represents a significant physical intervention. Moreover, a lean-to structure has been erected, which has materially affected the external appearance of the building. Consequently, the works fall outside the scope of section 55(2) (a).
13. To conclude on this matter, the requirements for prior approval under paragraph Q.2.(1) of the GPDO have not been met and, therefore, the proposal is not permitted development and the appeal should be dismissed.
14. For the reasons given above, I have found that the proposal does not satisfy the requirements of the GPDO with regard to being permitted development. Therefore, it is not necessary to consider the other reason given in the Council's decision notice, which relates to the access track.

Debbie Moore

Inspector