

Appeal Decision

Site visit made on 16 November 2016

by J F Powis BA (Hons) MSc MRTPI

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

Decision date: 20 December 2016

Appeal Ref: APP/Q1153/W/16/3155295

Large Barn, Great Widefield Farmhouse, Northlew Road, Inwardleigh, Okehampton, Devon EX20 3DA

- 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 P of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Andrew Jones against the decision of West Devon Borough Council.
 - The application Ref 0830/16/PAM, received by the Council on 15 March 2016, was refused by notice dated 10 May 2016.
 - The development proposed is a change of use from storage or distribution buildings (B8) to dwellinghouses (C3).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. For reasons for clarity, the description of development set out above is taken from the Council's decision notice and the appeal form.
3. Schedule 2, Part 3, Paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)¹ (GPDO) sets out the prior approval process. It states² that the 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 conditions, limitations or restrictions specified as being applicable to the development in question. It was on the basis that the proposed development does not comply with permitted development rights that the Council refused to grant prior approval in this case.

Main Issue

4. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class P of the GPDO.

Reasons

5. Class P permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or

¹ SI 2015 No. 596

² Paragraph W.(3)

- distribution centre) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.
6. Paragraph P.1 places restrictions on the development which may be permitted under Class P. It states that development is not permitted if the building was not used solely for a storage or distribution centre use on 19th March 2014 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. Development is also not permitted if the building was not used solely for a storage or distribution centre use for a period of at least 4 years before the date development under Class P begins.
 7. The appeal relates to a large stone Barn adjacent to Great Widefield Farmhouse. The proposal would involve the conversion of the Barn to a single, two-storey residential dwelling. The Council has argued that the proposal cannot be permitted development because the existing use of the building does not fall within Class B8. Schedule 1, Part 2 of The Town and Country Planning (Use Classes) Order 1987 (as amended) defines Class B8 as use for storage or as a distribution centre.
 8. The appellant states in part 4 of the application form that the Barn is currently used for domestic storage purposes. He contends that the definition of Class B8 does not explicitly distinguish between commercial, industrial or domestic storage. His submissions indicate that efforts to obtain advice from officers of the Council on this point did not provide clarification to his satisfaction.
 9. On my site visit I saw that the Barn is one of a number of buildings and structures within the wider holding of Great Widefield Farmhouse. The Barn is sited in close proximity to the south east of the Farmhouse and has along its north elevation garages serving the main Farmhouse. The Barn and Farmhouse are served by the same single access lane from Northlew Road.
 10. The Barn is currently used for domestic storage ancillary to the host residential property of Great Widefield Farmhouse. The appellant states that should consent be granted, other buildings within the overall site would be reorganised to accommodate the need for domestic storage currently provided by the Barn. An historic permission for conversion of the building to a residential dwelling and a holiday unit has expired.
 11. Having regard to these matters, I consider that the Barn has a clear physical and functional relationship with the Farmhouse and forms part of a single planning unit associated with that residential use. No permission appears to exist for a B8 class use on the site and there is no evidence before me to indicate that the Barn is functioning as a separate B8 class use, independent of the planning unit associated with Great Widefield Farmhouse. Consequently, it is clear that the building was not used solely for a storage or distribution centre use within the time period specified within Paragraph P.1 of the GPDO.
 12. For these reasons, I conclude that the proposal would not comply with one of the limitations and restrictions specified as being applicable to the proposed development. As such, the proposal falls outside of the permitted development right provided under Class P of the GPDO.
 13. Since the proposal fails to satisfy this basic requirement, there is no need for me to make a determination on the merits of the case for prior approval as the appeal cannot succeed.

Other Matters

Timing of the Council's Decision

14. The Council officer's report states that more than 56 days passed between the receipt of the above application by the Council and the Council's determination of that application. The appellant has not commented specifically on this point. Paragraph W.(11) of the GPDO provides that where 56 days following the date on which the application was received by the local planning authority have expired without the authority notifying the applicant as to whether prior approval is given or refused, planning permission is deemed to have been granted.
15. The Council's decision notice indicates that the application was received on 15 March 2016. The Council's refusal notice is dated 10 May 2016. On the basis of the information provided and having mind to the wording and requirements of the Order, I conclude that the Council's decision was made on the final day of the 56 day timescale specified in Paragraph W.(11) and as such, 56 days did not expire without the authority notifying the applicant as to whether prior approval is given or refused.

Conclusions

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

J F Powis

INSPECTOR