

Appeal Decision

Site visit made on 20 December 2016

by Alexander Walker MPlan MRTPI

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

Decision date: 13 January 2017

Appeal Ref: APP/P1045/W/16/3159479

Unit 1, The Cedars, Main Street, Hollington, Ashbourne, Derbyshire DE6 3HA

- 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) Order 2015.
 - The appeal is made by Neil Heldreich against the decision of Derbyshire Dales District Council
 - The application Ref 16/00178/PDA, dated 1 March 2016 was refused by notice dated 9 May 2016
 - The development proposed is the change of use of agricultural building to dwelling house (Use Class C3) and associated building operations.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the change of use of agricultural building to dwelling house (Use Class C3) and associated building operations at Unit 1, The Cedars, Main Street, Hollington, Ashbourne, Derbyshire DE6 3HA in accordance with the details submitted pursuant to Schedule 2, Part 3, Class Q of the GPDO, subject to the conditions contained within the Schedule attached to this decision.

Procedural Matters

2. I have used the description of the proposal as set out in the Council's decision notice. This is a more concise description than that found in the application form.
3. The appellant seeks prior approval for the conversion of the appeal building to a dwellinghouse under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development (England) Order 2015 (GPDO).

Background and Main Issue

4. Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) grants permission for the change of use of an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, together with building operations reasonably necessary to convert the building. Paragraph Q.1 specifies limitations to Class Q.
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5. A previous prior approval application¹ was submitted for a similar scheme. The application was refused and subsequently dismissed at appeal². Based on the evidence presented to him the Inspector concluded that he was not persuaded that the last use of the building was for agricultural purposes and that a new use had not been introduced. The Inspector also stated that he accepted that further evidence could be adduced as to the building's last use. Furthermore, he found that the proposed curtilage was too large and the effect of the proposed access on the character and appearance of the area was uncertain.
6. In addressing the previous Inspector's findings, the proposal before me has reduced the size of the curtilage and the proposed access would utilise the existing access to The Cedars. The Council raise no objection to these elements of the proposal and based on the evidence before me, I concur with this view. The appellant has also provided a number of statutory declarations regarding the last use of the building. The Council's only reason for refusal is that the site was not solely used for agricultural use, as part of an established agricultural unit on the 20 March 2013.
7. The main issue in this appeal therefore is whether the proposed change of use constitutes permitted development pursuant to Class Q(a) of Part 3 of Schedule 2 to the GPDO, having regard to whether the site was solely in agricultural use, as part of an established agricultural unit, within the applicable timeframes.

Reasons

8. Paragraph Q.1 of the GPDO states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit (i) on 20th March 2013, or (ii) 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, or (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins. The Council contends that the building does not satisfy clause (i) or (ii). It is not disputed that clause (iii) cannot be satisfied.
9. The appellant confirms that they purchased the property in 2010 and there is sufficient evidence to indicate that prior to this the building was in agricultural use as part of an established agricultural unit. This is supported by a number of statutory declarations submitted with the appeal. There is no evidence that the appellant continued the agricultural use of the building and he does not contend that it was in agricultural use on 20th March 2013. Therefore, the nub of the argument is whether or not the proposal satisfies clause (ii).
10. At the time of my site visit, the building was not in use and was empty. Other than a small number of minor alterations including the replacement of two doors, one on the east elevation and one on the west, and a first floor window in the southern gable, there appeared to be no evidence of any modernisation of the building and it has retained its original agricultural form.
11. The appellant confirms that the building was used for the storage of domestic items whilst the dwelling and the barn were being renovated and that the items were stored there for approximately three weeks. During this time the site was visited by an Officer of the Council who witnessed the items as evidenced in the photographs submitted, which themselves are inconclusive. Whilst the storage of

¹ Council Ref 14/00429/PDA

² Appeal Ref APP/P1045/A/14/2228127

domestic items is not an agricultural use, given the short period of time the building was put to such use I do not accept that it constituted an intervening use that would amount to a material change in the use of the building.

12. I have had regard to the furniture restoration business that operates from adjoining single storey building that benefits from planning permission³. The planning permission did not include the appeal building. The Council refer to a letter of objection that the former owner of the property submitted for the previous prior approval application. Whilst I have not been presented with the letter, the Council confirms that it was claimed that the appeal building was used as a workshop and storage in association with the adjoining business. However, the appellant has confirmed, in the form of a statutory declaration, that the appeal building has not been used in association with the business for the reason that the existing workshop is sufficient for the needs of the business and the appeal building is not watertight. I am persuaded by the appellant's argument that as the business deals with antique furniture, the building is unsuitable for such a use, which was evident from my own observations.
13. Based on the evidence before me, I am satisfied that on the balance of probability the building was solely used for agricultural purposes as part of an established agricultural unit prior to the appellant purchasing the property in 2010. Furthermore, I am also satisfied that no intervening use amounting to a material change in the use of the building has taken place since. Therefore, I find that the proposal would comply with paragraph Q.1 (a) of the GPDO.

Other Matters

14. PPG advises the starting premise for Class Q is that the permitted development right grants planning permission, subject to the prior approval requirements⁴. The provisions of the GPDO require the local planning authority to assess the proposed development in respect of; transport, highways and noise impacts of the development; flooding and contamination risks on the site; whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling house; and, design or external appearance. The Council has assessed the application against these criteria and does not object on these grounds, subject to a condition requiring the hedge along the site frontage to be cut back to improve visibility when exiting the site. On the basis of what I have read and seen of the site, and the proposed conversion, I agree with the Council's assessment.

Conditions

15. The appellant should note that the GPDO requires at paragraph Q.2(3) that the development must be completed within a period of 3 years from the date that the prior approval is granted. A number of other conditions apply to such development, including paragraph W(12) of the GPDO which requires that the conversion is carried out in accordance with the details provided in the application.
16. In the interests of the character and appearance of the building and the area, a condition is necessary regarding doors and windows. Conditions are also necessary regarding the provision of parking spaces and prohibiting gates or

³ Council Ref 10/00639/FUL

⁴ Paragraph: 109 Reference ID: 13-109-20150305

other barriers within 5m of the highway boundary in the interests of highway safety.

17. Given that the curtilage of the building is well screened from public views and is relatively small in size, I do not find that a condition regarding landscaping and hard surfacing is necessary.
18. I have had regard to the suggested condition concerning the provision of space for the storage of plant, materials, site accommodation, loading and unloading of goods vehicles, etc. However, given the scale of the development I do not find that such a condition is necessary.
19. The proposed development would not benefit from many of the permitted development rights under Schedule 2 part 1 of the GPDO. Therefore, a condition that would effectively remove these rights is not necessary. I do not consider that exceptional circumstances have been demonstrated to justify the removal of any permitted development rights that the development would benefit from.

Conclusion

20. I therefore conclude that in relation to Class Q sufficient information has been provided to enable me to allow the appeal.
21. For the reasons given above, I find that the proposed change of use is permitted development under Class Q and as such, having considered all matters raised, the appeal is allowed and approval granted.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Prior to the first occupation of the hereby approved dwelling, details of new doors and windows shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to first occupation of the hereby approved dwelling.
- 2) Prior to the occupation of the hereby approved dwelling, a plan indicating an area for the parking and manoeuvring of vehicles shall be submitted to and approved in writing by the local planning authority. The approved plan shall be fully implemented prior to the occupation of the dwelling and shall be retained for its intended purpose in perpetuity.
- 3) There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open into the site only.