
Appeal Decision

Site visit made on 3 January 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 18th January 2017

Appeal Ref: APP/N5090/W/16/3159826

Rowley Bank Farm, Rowley Lane, Barnet EN5 3HS

- 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 & Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Tony Ioannou against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/0485/PNA, dated 22 January 2016, was refused by notice dated 5 April 2016.
 - The development proposed is the change of use of three agricultural buildings to three self-contained dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As described, the proposal would involve a change of use of existing buildings to residential dwellings by the carrying out of various works of operational development to facilitate their conversion. I have therefore considered the appeal on the basis that it seeks prior approval for development under Class Q. (a) (use) and (b) (building operations) of the Town & Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
3. As the application is for prior approval under Schedule 2, Part 3, Class Q of the GPDO, the policy on Green Belts as prescribed in the National Planning Policy Framework is not relevant in the determination of this appeal.

Main Issue

4. The main issue is whether the proposal is permitted development under Class Q, both in terms of the use (paragraph (a)) and the building operations reasonably necessary to convert the buildings to dwelling houses (paragraph (b)).

Reasons

Use – paragraph Q.(a)

5. The appeal buildings comprise of three former agricultural buildings (Nos 2, 5 and 6) located within a linear cluster of buildings that comprised Rowley Bank Farm. Other than the areas around the farm access road and the manoeuvring areas in front of the buildings, the curtilage of the site and former agricultural fields to the west are predominantly overgrown. At my site
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inspection I observed that there was no evidence of any agricultural activity occurring either within the site curtilage or the former agricultural land to the west. I also observed that each of the buildings were partially use for the storage of a variety of domestic and construction materials.

6. In determining whether change of use from an agricultural building to a residential dwelling is permitted development, paragraph Q.1 of Class Q lists the relevant criteria against which a proposal must be assessed; failure to meet any of these criteria means that it is not permitted development. In particular, the relevant criteria require that the use of the building must have been solely for agricultural purposes as part of an established agricultural unit, when last in use before 20 March 2013.
7. The appellant does not argue that the building was in agricultural use on 20 March 2013, but instead relies on Q.1(a)(ii) that it was in such use when last in use. Statutory Declarations submitted by the appellant and two people who know him state that the farm was purchased in 2003 and at the time had a lawful agricultural use and that since that date the site, including its buildings, has not been used for agricultural purposes or for any non-agricultural purposes.
8. The Council suggest that the agricultural business ceased some time before 2003 and that a recent officer site visit indicated that the buildings were being used for the storage of construction materials and equipment and there was no evidence that the land was being used as part of an agricultural business. In addition the Council suggest that aerial photographs show that the site has been and is currently used for the storage of construction related items. The Council therefore considers that the most recent use of the buildings is storage that is not associated with an agricultural use.
9. I have taken into account the appellant's contention that the buildings are used for low level personal storage and that rubble stored on the site was from the replacement of land drainage. However, there are clearly conflicting views of both main parties regarding whether or not the buildings were last in use for agriculture as part of an established agricultural unit or whether they have been, and are, used for storage that is not for the purposes of agriculture.
10. At my site visit I saw no clear evidence that the surrounding land is being used for agricultural purposes and the buildings are being used and have likely been used, for the storage of domestic and construction materials, albeit on a small scale. Irrespective of whether a formal change of use has taken place in planning terms, I cannot conclude from the evidence before me and my observations on site that the buildings have been used, remained in use, or remained unused since 2003 such that their last use prior to 20 March 2013 was for agricultural purposes as part of an established agricultural unit.
11. As a result of the above, I must conclude that the proposal would fail to satisfy the requirements of paragraph Q.1(a)(ii) and therefore it would not be permitted development under Class Q(a) of the GPDO.

Building operations – paragraph Q.(b)

12. The application also relates to carrying out of various works of operational development to facilitate the conversion of the buildings. Although not specifically referred to as a reason for the refusal of prior approval in the

Council's Decision Notice, it is necessary to consider whether sufficient details of the building operations to convert the buildings to Use Class C3 (dwelling house), as required under paragraph Q.1(i), are provided, and whether prior approval of the Council would be required in respect of the considerations required by paragraph Q.2(1) (a) to (f).

13. The Council does not dispute the findings of the submitted feasibility report which confirms that buildings 2, 5 and 6 are capable of being converted to dwellings and that no major structural work would need to be undertaken. It was also clear from my observations at the site visit that the structures of the appeal buildings are capable of functioning as dwellings. Therefore, in the absence of any other evidence to the contrary, I have no reason to find that new structural elements would be required.
14. The Council consider that the transportation and highways impacts of the development are acceptable; no noise impacts are identified; there are no contamination risks associated with the site, and there are no undue flood risks. Consequently I have no evidence to suggest that prior approval would be required in relation to paragraphs Q.2(1) (a) – (d). I agree with the Council that the location of the buildings would be acceptable and would not be incompatible with nearby land uses. I also agree that the design and external appearance of the proposed dwellings could be controlled through planning conditions such that they would be appropriate for this location. Consequently, the proposal would meet the requirements of Q.2(1) (e) and (f).
15. I therefore conclude that the proposed works would satisfy the requirements of paragraph Q.1(i) and that prior approval would not be required in respect of the items set out in paragraph Q.2(1) (a) to (f). Consequently, in the event that I had found that the proposed change of use constituted permitted development under Class Q(a), building operations necessary to convert the buildings would be permitted development under Class Q(b) of the GPDO.

Other matters

16. The appellant has drawn my attention to other appeal decisions relating to prior approval under Class Q of the GPDO. However, I do not have full details of the nature of the proposals or the circumstances relating to these appeals. Consequently, I cannot be sure that these are representative of the circumstance in this appeal and, in any case, I have determined this appeal on its own merits.

Conclusion

17. Notwithstanding my findings regarding the building operations necessary to convert the buildings, the proposed change of use would not be permitted development. Therefore, for the above reasons and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR