
Appeal Decision

Site visit made on 31 January 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 22nd February 2017

Appeal Ref: APP/J1535/W/16/3161689

**Plot 1 (Rose Cottage), Old Piggery, Land Behind Parish Rooms,
Coopersale, Epping, Essex CM16 7QT**

- 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 Chris Willis against the decision of Epping Forest District Council.
 - The application Ref EPF/0628/16 PN, dated 15 January 2016, was refused by notice dated 29 April 2016.
 - The development proposed is described as 'one wooden cottage'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Planning Practice Guidance ('PPG') advises that the starting point for Class Q is that the permitted development rights grant planning permission, subject to the prior approval requirements. However, it is necessary to determine whether the proposal falls within permitted development. Class Q of the GPDO¹ states that development consisting of Q(a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order²; and Q(b) building operations reasonably necessary to convert the building, is permitted development.
3. Where development is proposed under Class Q(a) together with Class Q(b), it is permitted subject to the condition under paragraph Q.2 (1) that before beginning the development, an application must be made to the local planning authority for a determination as to whether the prior approval will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building.
4. The Council refused the application for prior approval because it was not satisfied that the building, when last in use, was for agricultural use as part of an established agricultural in accordance with Class Q.1 (a). Furthermore, that the building could not be converted without introducing new structural

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

² The Town and Country Planning (Use Classes) Order 1987 (as amended)

elements in order for the building to function as a dwellinghouse in accordance with paragraph (i).

Main Issues

5. The main issues are:

- whether the proposal would be permitted development, with particular regard to whether the requirements of Class Q of the GPDO in terms of paragraph Q.1 (a) and (i) would be met, and;
- if so, whether or not prior approval is required and the proposal would be acceptable in relation to the matters sets out in paragraphs Q.2(1)(a) to (f) of the GPDO.

Reasons

Whether the proposal would be permitted development

6. Compliance with Class Q, amongst other criteria, includes paragraph Q.1(a) which requires that the site was solely used for an agricultural use as part of an established agricultural unit on 20 March 2013 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. Schedule 2, Part 3, paragraph X of the GPDO sets out that an 'established agricultural unit' for the purpose of Class Q means agricultural land occupied as a unit for the purposes of agriculture, on or before 20 March 2013 or for 10 years before the date the development begins. Furthermore, 'agricultural building' means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business, and 'agricultural use' refers to such uses.
7. 'Agriculture' as defined in Section 336, paragraph (1) of the Town and Country Planning Act 1990 (as amended), amongst other things, includes horticulture, fruit growing, seed growing, the breeding and keeping of livestock and the use of land as grazing land.
8. The appeal site comprises a detached wooden building and its curtilage. The building consists of a timber frame sitting on concrete posts with a suspended railway sleeper floor structure, covered in plywood. Part of the building is timber boarding with some profiled sheet roofs and walls, with the central element incorporating a pitched roof covered in felt. There are also two timber sheds sited along the boundary, which, at the time of my site visit were being used for domestic storage. There were also a small number of chicken coops and associated runs and I noted that there were approximately 19 chickens roaming within the site.
9. The appellant states that approximately 10 years ago he started to keep unusual breeds of chickens and Bantams for selling eggs to neighbours, 'this being a hobby of mine'³. Consequently, this activity appears to have been in place on 20 March 2013 and this is supported by my observations at the site visit. However, no records of sales or any detailed information has been provided on how this translates to a trade or business. Moreover, the keeping of what amounts to a small number of chickens and Bantams and the selling of eggs to neighbours as a hobby is, to my mind, insufficient activity to constitute

³ Planning Appeal Form.

an agricultural use as part of an established agricultural unit. It is more related to a recreational level of activity and a hobby use rather than constituting an agricultural trade or business.

10. Parts of the site were also being used for domestic storage and the storage of building materials. Even if it were considered to be in agricultural use on the specified date, in combination with the fact that a car was being stored in part of the building, with no substantive evidence to show that this was used as an integral part of any such use, this leads me to conclude that the site was also not used solely for an agricultural use on that specified date.
11. Taking everything together, I am not persuaded from the evidence before me and my observations on site that the buildings were solely used for an agricultural use as part of an established agricultural unit in accordance with paragraph (a) of Class Q. Consequently, I must conclude that the proposal would fail to satisfy the requirements of paragraph Q.1 (a) (i) and therefore it would not be permitted development under Class Q (a) (i) of the GPDO.
12. Furthermore, there is nothing to suggest the building was not in use on 20 March 2013 for the poultry related activities. Whilst I have been provided with some evidence that seeks to demonstrate the sale of pigs and piglets between December 1966 and September 1968, the mere movement of pigs and receipts for animal feed does not demonstrate that even if the site was not solely in agricultural use, the building was in use previously for agriculture. Consequently, it would not be permitted development under Class Q.1 (a) (ii).

Building operations – paragraph Q.(b)

13. The Council's other reason for relates to insufficient evidence that the building can be converted without introducing new structural elements. Whatever the case may be, given that in order to be permitted development under Class (Q) a proposal must satisfy all of the criteria and I have found that Q.1 (a) (i) or (ii) is not satisfied. Therefore I do not consider it is necessary to consider this further as it would not alter the outcome of the appeal.

Prior approval

14. For similar reasons, given my conclusion that the change of use would not be development permitted under Schedule 2, Part 3, Class Q of the GPDO, there is no need for me to consider the prior approval matters as it would not alter the outcome of the appeal.

Other Matters

15. I note the appellant's intentions with regard to the future use of the land, other planned developments within the area, the maintenance of adjoining public rights of way and that energy efficiency measures would be utilized. However, these have no bearing on the consideration of whether the proposal would constitute permitted development and therefore do not alter my views in relation to the main issues.

Conclusion

16. For the above reasons, I conclude that the proposal is not permitted development under Schedule 2, Part 3, and Class Q of the GPDO. Consequently, it is development for which an application for planning

permission would be required. This would be a matter for the local planning authority to consider in the first instance, and cannot be addressed under the prior approval provisions set out previously. I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR