
Appeal Decision

Site visit made on 21 February 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 10 March 2017

Appeal Ref: APP/D0840/W/16/3163820

The Oaks, Old Rail Road, Crowan, Praze TR14 9NB

- 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 & Mrs S & W Button against the decision of Cornwall Council.
 - The application Ref PA16/07946, dated 23 August 2016, was refused by notice dated 19 October 2016.
 - The development proposed is for the conversion of an agricultural building to a single residential dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Cornwall Council against Mr and Mrs S and W Button. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether or not the development is permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

Reasons

4. The appeal relates to silage clamp building with blockwork walls with an opening to its front and a concrete floor.
5. Schedule 2, Part 3, Class Q of the GPDO states that 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 to the Use Classes Order¹ and building operations reasonably necessary to convert the building, is permitted development. Paragraph Q.1 (a) – (m) sets out the relevant exceptions and limitations of the permitted development right.
6. The exceptions in dispute are Q.1 (a), (g) and (i). The Council state that the proposal meets the remaining limitations and I find no reasons to take a contrary position.

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

Q.1(i)

7. Q.1(i) allows for the installation or replacement of windows, doors, roofs and exterior walls to the extent reasonably necessary for the building to function as a dwelling house and for partial demolition to the extent reasonably necessary to carry out these building operations.
8. The building at present has no roof. A new roof is therefore proposed which in principle would be allowed by this exception. However, Planning Practice Guidance (PPG) advises that it is *"not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right."*
9. The supporting structural visual appraisal document states that it would be perfectly acceptable structurally to cut pockets into the external walls to accommodate steel beams that span across the space with roof joists cut into the depth of the steel beams. It is stated that the blockwork walls would be strong enough to carry the weight of the roof structure.
10. Based on my own observations and given the designed purpose of the building, I do not doubt that the existing structure is capable of accommodating the loads associated with a change of use to a dwelling. I also appreciate that the permitted development right does not state that only a roof covering can be added. However, the PPG is clear that it is not the intention of the permitted development right to include the construction of new structural elements for the building. In this case, it is acknowledged in the appellants' structural visual appraisal, that there is no roof to the silage clamp and there doesn't appear to have ever been one. This corresponds with my own observations. Accordingly, there is no roof structure and to allow the installation of a new roof, would require a completely new structure to support it. The building is not therefore capable of functioning as a dwelling without new structural elements.
11. For this reason I find that this element of the proposed works would not benefit from the permitted development right under Class Q(i).

Q.1(a)

12. Q.1(a) states that development is not permitted if the site was not used solely 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. The application form states that the last use of the building was for hay storage and the supporting statement says it was used solely for agricultural use as part of the an established unit on 20 March 2013 and for at least 10 years before that date.
13. The Council's Officer report makes reference to a Statutory Declaration dated January 2013 regarding a Certificate of Lawfulness for the dwelling known as 'The Oaks', which is understood to have been signed by the appellants. The Council say that this declaration confirms that appellants were not, and never have been employed in farming. This differs in emphasis to the appellants' explanation that they were not primarily employed in agriculture.

14. Notwithstanding any conflict with the above referenced declaration, the appellants state that the agricultural unit consists of three fields that measure 6.76 hectares in total. A plan from the Rural Payments Agency and a document from the Rural Land Register (RLR) have been provided to identify this holding. These are dated August and September 2009 respectively. Although the building in question does not form part of this land, it does front onto it and appears to be functionally related to it. The name on the RLR information is also Messrs S R Button.
15. Various other documents are provided including Entitlement Statements under the Single Payment Scheme and an Animal Health Registration for chickens. The address on each of the documents tallies with the above address and the addressee is in all cases Mr S R Button (assuming the letter to Mr S R Burton dated June 2005 is a spelling mistake). I am satisfied therefore that there was an established agricultural unit and given the details provided on the Rightmove sales particulars, that the appeal building formed part of it.
16. At the time of my site visit, the building was essentially vacant and as such was not in agricultural use. The Council state the structure appears to indicate there has been no activity within the former silage clamp for some years. However, this in itself is not fatal as Q.1(a)(ii) provides for dormant uses, such as when the building was not actually being used on the above date, but, when last used before that, was used for agriculture. In this regard, a silage clamp is clearly an agricultural use. Therefore as long as there has been no intervening or different use, the permitted development right would still apply.
17. From the aerial photograph of 2009, it is difficult to establish the black items within the walled enclosure are hay bales as suggested. Nevertheless, wrapped baled silage or silage covered in plastic sheeting is consistent with this appearance and a photo has been provided of the fields with hay bales. I also observed a number of old tyres being stored in the building which again is consistent with their use to weigh down plastic sheeting within a clamp as part of the silage process.
18. Therefore, on the basis of the information before me and my observations on site, I am satisfied that the building was used solely for an agricultural use as part of an established agricultural unit during the period in question. Moreover, I have not been provided with any evidence to suggest an intervening change of use has taken place. Accordingly, the proposal would fall within the limitations of Q.1(a).

Q.1(g)

19. The Q.1(g) limitation is that the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.
20. The application supporting statement explains that the existing blockwork walls would be clad and rendered in sections. The Council's concern is essentially that this and new fascia boards, and cappings to the top of the existing walls, would increase the width of the building. In response, the appellant has drawn my attention to an appeal decision² where the Inspector highlights that PPG clarifies that replacement windows, doors, roofs and exterior walls fall within

² Appeal Ref: APP/V2635/W/15/3005409

the ambit of what should be permitted. The Inspector also states that "*Whilst cladding added onto the existing external walls would result in a building which extends beyond its existing external dimensions, the net difference to the footprint from cladding would be negligible.*" In this case, the illustrative plans also show that the cladding would not extend beyond the existing buttresses of the building. The cladding would therefore be contained within the envelope of the original building.

21. I therefore find that external cladding would not in this case contravene the limitation at paragraph Q.1(g).

Conclusion

22. The proposed works would not fall within the limitations of Class Q(i) and planning permission would therefore be required for the conversion of the agricultural building to a single residential dwelling. As I have found that the subject building does not benefit from the permission granted by Class Q of the Order, it is not necessary or appropriate for me to consider the various criteria set out in paragraph Q.2 of the GPDO.
23. Therefore, for the reasons given above, I conclude that the proposal is not permitted development and that the appeal should not succeed.

Richard S Jones

Inspector