
Appeal Decision

Site visit made on 31 January 2017

by H Porter BA(Hons) PGDip IHBC

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

Decision date: 16 March 2017

Appeal Ref: APP/H3320/W/16/3163154

Building east of Luckes Lane, Lower Weacombe, Williton, Taunton TA4 4LP

- 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 Stafford against the decision of West Somerset Council.
 - The application Ref ABD/28/16/001, dated 25 July 2016, was refused by notice dated 21 September 2016.
 - The development proposed is described as 'conversion of the agricultural building as shown on the accompanying plans'.
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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 (as amended) (the GPDO) for the conversion of the agricultural building as shown on the accompanying plans at the building east of Luckes Lane, Lower Weacombe, Williton, Taunton TA4 4LP in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph W(2) of the GPDO through application Ref ABD/28/16/001, dated 25 July 2016. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of the 2015 GPDO.

Application for costs

2. An application for costs was made by Mr & Mrs Stafford against West Somerset Council. This application will be the subject of a separate Decision.

Background

3. Subject to a number of conditions and restrictions, the GPDO grants permission for the change of use of agricultural buildings and land within their curtilage to a use falling within Class C3 (dwellinghouses) (Q(a)) and any building operations reasonably necessary to convert the building (Q(b)). The application is one made in respect of Class Q (a) and (b) for the conversion of an agricultural building east of Luckes Lane. Paragraph Q.1 provides a list of exclusions as to when development would not be permitted by Class Q, including that it was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. In this case, the Council consider that the building was not used solely for an agricultural use, or that the appellant has provided insufficient evidence to demonstrate that it was. On
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this basis, the Council have concluded that the scheme would not be permitted development.

4. The provisions of the GPDO require that where a development is proposed under Class Q (a) and (b), the developer must apply to the local planning authority for a determination as to whether prior approval is required in relation to matters outlined in Paragraph Q.2(1) (a to f). The Council's Decision Letter does not refer to specific matters identified at Paragraph Q.2(1) as it finds that the scheme would not represent permitted development. As no specific concerns regarding any matters identified at Paragraph Q.2(1) have been raised; I have taken this to mean that the Council concluded that prior approval would not be required for those matters. Interested parties' comments, however, raise concerns regarding the potential impact on the nearby Quantock Hills Area of Outstanding Natural Beauty (the AONB); and whether the building would be capable of functioning as a dwelling. These concerns therefore call into question whether the conditions at Paragraph Q.2(e) and (f) would be satisfied by the proposed development. I have dealt with the appeal on this basis.

Main Issues

5. The main issues in the appeal are whether the appeal site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, and therefore constitutes permitted development under Schedule 2, Part 3, Class Q of the GPDO; and, if permitted development, whether or not prior approval should be granted.

Reasons

Whether permitted development

6. Class Q (a) applies to development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses). However, development is not permitted by virtue of Class Q.1 (a)(i) if the site was not used solely for agricultural use as part of an established agricultural unit on 20 March 2013.
7. The appeal relates to a substantial barn constructed of a steel-frame, cement sheet roof, clad in timber boarding, with large metal rolling doors to the gable ends. The building was constructed under a prior approval notification granted in 2010, indicating that at that point in time the Council were satisfied that the building would be erected for agricultural use. The building is currently under license for the purpose of keeping sheep. The appeal site's red line boundary incorporates a small area of hard standing at the front and around the perimeter of the main structure, within a wider rural context of open fields and paddocks. Until the summer of 2016, the appeal site had formed part of a wider landholding associated with Higher Thornes Farm.
8. A planning application dated June 2013 (3/28/13/004) proposed the change of use of buildings and part of the land of Higher Thornes Farm for dual agricultural and equestrian use. This permission, however, specifically excluded the appeal building and 32 acres of land around it. In support of this planning application, an independent equine appraisal report, dated 23 May 2013, identified these 32 acres of pasture land, for sheep grazing. A Statutory Declaration, signed by the current owners of the building, records a

conversation with the former landowner who confirmed the site and surrounding land was included in a Single Payment Scheme, and the building was used to store fodder and hay. Albeit this verbal account has lesser weight than if it were signed by the former landowner, it is sworn to be true and does provide further emphasis to the case that the appeal site was in agricultural use around the time of 20 March 2013. Furthermore, the fact that there has been no breach in the Rural Payments Agency's cross compliance rules and the CHP number indicates that the land has been used for keeping sheep.

9. More recent evidence, dating from the time the appeal building and surrounding land was sold in mid-2016, indicates that at least part of the land excluded from the 2013 mixed-use permission was being used for grazing horses. Accounts from parties who viewed the interior of the barn in June 2016 reported partitions and stable doors were in place; and the photograph of the building from the sales particulars show metal gate partitions inside the barn as well as a stack of hay bales. While the sales particulars identify the surrounding land as 'paddocks', they also classify the barn as being a 'modern agricultural building'. At the time of the Planning Officer's visit, the structure was being used for the storage of hay and machinery, although horses were grazing the paddocks nearby. What I saw on site accorded with the Officer's observations of the building's interior, which contained hay and paraphernalia that was clearly agricultural in nature.
10. The photograph from the sales particulars, as well as third-party accounts indicates that the contents of the appeal building are clearly changeable and that the land surrounding the appeal site may have been used for grazing horses by 2016. However, the Council have not raised any enforcement action in relation to any obvious breach of planning control between the time the building was erected in 2011 and 2016.
11. While I accept some evidence does imply that part of the building may have been used for non-agricultural uses associated with the equestrian facility at Higher Thornes Farm in 2016, the evidence of such activity significantly post-dates 20 March 2013. On the other hand, the 2013 planning permission, equestrian report, verbal account from the previous landowner through a Statutory Declaration, as well as the CHP payments cumulatively amount to compelling evidence closer to the pertinent date.
12. Based on the evidence before me, and on the balance of probability, I conclude that on 20 March 2013 the appeal site was used solely for an agricultural use. The council has not raised any issue with the proposed development not complying with the other limitations set out in Paragraph Q.1 (b) – (m) of the GPDO, I have no reason to disagree with this position. I am therefore satisfied that the proposal complies with the relevant limitations and restrictions set out in the GPDO and so would be permitted development under Class Q.

Whether prior approval would be required

13. Paragraph Q.2 (e) relates to whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouse). The Planning Practice Guidance (the PPG) advises that an agricultural building in a location where the local planning authority would not normally grant planning permission for a new dwelling is not sufficient reason for refusing prior

approval¹. The PPG also establishes that when considering location and siting, tests from the National Planning Policy Framework should not be applied except where they are relevant to the subject matter of the prior approval.

14. The proposed conversion would involve the insertion of aluminium framed windows and doors, rooflights and standing-seam roofing supported by the existing steel frame and concrete pad. No further external alterations are proposed, and the curtilage of the proposed dwellinghouse would be no greater than the existing agricultural building. The red line around the application site is tightly drawn to include a small strip around the perimeter of the building, as well as the existing access and parking to the front. The wider parcel of land is not included within the site. The scope to harmfully urbanise or domesticise the exterior of the site would be limited and any use of the land outside the red line would be a matter for the Council to consider. The building already forms part of the character and appearance of the landscape and the external alterations proposed would not, in my judgement, result in any material harm to the wider context, or to the landscape and scenic beauty of the nearby AONB.
15. The appeal decision APP/W1145/W/15/3139734 is concerned specifically with Paragraph Q.2(1)(e) of the GPDO. While not knowing the specifics of that case, I note the proposal had included the implementation of a new, long, gravelled track as well as a large domestic curtilage in an exposed location. It was these aspects that led the previous Inspector to conclude that development would be harmful to its surroundings. It is clear that the site-specific circumstances before me are materially different. In any event, I have assessed the proposal on its own merits.
16. The appellant has submitted evidence by way of a structural report to indicate the soundness of the existing structure. There is no indication that any new structural elements would be required in converting the building. There is no substantive evidence before me to conclude other than that the existing building is structurally strong enough to take the loading which comes with the the external works to provide for residential use.
17. Consequently, I conclude that the location or siting of the building does not make it impractical or undesirable for the building to change from an agricultural to a residential use and the building operations required would not fall outside of those reasonably necessary to convert the building to residential use. In light of this, and that there is no evidence that other prior approval is needed for other parts of Q.2(1), prior approval would not be required in relation to matters outlined in Paragraph Q.2(1) (e) and (f).

Conclusion

18. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

H Porter

INSPECTOR

¹ 13-109-20150305