
Appeal Decision

Site visit made on 21 March 2017

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 07 April 2017

Appeal Ref: APP/T3535/W/16/3162126

Fermoy Store, Jay Lane, Lound, Lowestoft, Suffolk NR32 5LH

- 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 Mr David Glayzer against the decision of Waveney District Council.
 - The application Ref DC/16/1836/PN3, dated 28 April 2016, was refused by notice dated 1 August 2016.
 - The development proposed is change of use of pole barn to the rear from agricultural barn to residential.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr David Glayzer against Waveney District Council. This application is the subject of a separate Decision.

Preliminary Matter

3. Because the application form does not list a description of the proposal, I have used the Council's wording as set out in its decision notice in the banner heading above. As the appellant also uses this description in the appeal form, I am satisfied that neither main party is prejudiced by me taking this decision.

Reasons

4. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) permits development consisting of: (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 C3 (dwellinghouse) of the Schedule to the Use Classes Order; and (b) building operations reasonably necessary to convert the building.
 5. The Council defines and accepts that the pole barn is a structure, and I have no obvious reason to disagree with that description of it. Article 2(1) of the GPDO defines a building as including any structure or erection including any part of a building. In my judgement, the pole barn clearly and unambiguously falls within this definition of a building irrespective of whether it lacks full enclosure. Conversely, the Council has not advanced any sufficient or reasoned explanation for its decision to ignore the legal definition in this instance, and
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instead rely on the definition set out within the Oxford English Dictionary as justification for refusing the scheme. I find no sound basis for this approach. Therefore on the evidence before me, I find that the Class Q(a) test is satisfied.

6. The Council also casts considerable doubt on the ability of the pole barn to be converted to a residential unit without considerable rebuilding and restructuring. This did not form any part of the Council's reason for refusal. Class Q.1(i)(i) of the GPDO states that development under Class Q(b) is not permitted where it would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls to the extent reasonably necessary for the building to function as a dwelling house. Paragraph 105 of the Planning Practice Guidance (the Guidance) (*Ref ID: 13-105-20150305*) states, amongst other things, that it is not the intention of the permitted development right to include the construction of new structural elements for the building; and therefore it is only where the existing building is structurally strong enough to take the loading that the building would be considered to have the permitted development right.
7. There is no dispute between the main parties that the original steel frame of the pole barn would remain. However, irrespective of whether the proposed works would or would not fall outside of the definition of development as defined in the Town and Country Planning Act 1990, I am satisfied that both the GPDO and the Guidance require a test of structural soundness particularly where doubt exists. In this case, insufficient evidence is before me which demonstrates that the structural integrity of the pole barn is sound, and that it can be reasonably converted to a dwelling to include particularly the provisions of an upper floor and a new roof.
8. Therefore, while I find nothing in the Council's case to suggest that the pole barn would fall outside the definition of a building, for the reasons give above I must conclude on the evidence before me that the proposed development would not comply with Classes Q(b) and Q.1(i) of the GPDO.

Conclusion

9. For the reasons given above I conclude that the appeal should be dismissed.

R Allen

INSPECTOR