The Planning Inspectorate

Appeal Decision

Site visit made on 22 February 2017

by J F Powis BA (Hons) MSc MRTPI

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

Decision date: 19 April 2017

Appeal Ref: APP/X1118/W/16/3164478
Land identified as Pt OS 4144, Honiton Road, South Molton, Devon EX36 4JA

- 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 (as amended).
- The appeal is made by Mr & Mrs Kiff against the decision of North Devon District Council.
- The application Ref: 61587, dated 18 July 2016, was refused by notice dated 20 September 2016.
- The development proposed is conversion of part of existing agricultural use and agricultural storage building to residential unit.

Decision

1. The appeal is dismissed.

Background and Main Issues

2. Schedule 2, Part 3, Paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)[1] (GPDO) sets out the prior approval process. It states[2] that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on the basis that the proposed development does not comply with permitted development rights that the Council refused to grant prior approval in this case.

3. A second reason for refusal relates to whether the proposal, if deemed to be permitted development, would satisfy the conditions set out at Paragraph Q.2.(1) of the GDPO in respect of the living conditions of future occupiers of the dwelling.

4. Accordingly, the main issues are:

   - whether or not the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO; and, if so,

   - whether the location or siting of the building would make the proposed change of use impractical or undesirable.

[1] SI 2015 No. 596
[2] Paragraph W.(3)

Reasons

5. The appeal relates to part of a large, rectangular building situated off an unclassified road to the south west of South Molton. An existing blockwork partition sub-divides the building and the appeal site comprises only the northern portion of the building.

6. The part of the building subject to this appeal ('the appeal building') is of a steel framed construction, with the roof and main external walls clad in profiled steel sheeting. The appeal building is open sided along one length as it adjoins an area of concrete hardstanding connecting to a second, parallel building of similar dimensions. Both buildings sit within a field owned by the appellants.

7. The proposal involves the conversion of the appeal building to a single-storey residential dwelling with three bedrooms. Some new walls, door and window openings and a foul drainage system would be installed to facilitate the conversion. An area of the adjacent field would be enclosed to form external amenity space for the dwelling.

8. Class Q 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 Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, together with building operations reasonably necessary to convert the building.

9. Paragraph Q.1 places restrictions on the development which may be permitted under Class Q. It 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. In the case of a site which was brought into use after 20 March 2013, development is also not permitted if the building was not used solely for an agricultural use as part of an established agricultural unit for a period of at least 10 years before the date development under Class Q begins.

10. The Council has argued that the proposal cannot be permitted development because the appeal site is not used solely for an agricultural use as part of an established agricultural unit. The appellants submit that the appeal building forms part of an established agricultural holding and that the open pasture within which it sits is used for grazing and rearing livestock and is cut for hay. Whilst an agricultural holding number has been cited, this in itself is not sufficient evidence of the nature of the appeal building's use.

11. The appellants state that the appeal building has been in constant use for agricultural purposes since its erection approximately 35 years ago. While this may be the case, Paragraph Q.1 of the GPDO requires that the building has been used solely for an agricultural use in the specified time period. Sole use in this sense would not include, for example, an agricultural use combined with a domestic storage or industrial use.

12. The appellants acknowledge that their son has used the parallel building, which does not fall within the appeal site, to manufacture cattle handling equipment for the past three years. As noted above, the boundary of the appeal site is drawn tightly to encompass only the northern portion of one building. During my visit, I noted the industrial appearance of the parallel building and the unit

adjoining the appeal building to the south, both of which are constructed partially in blockwork and enclosed by secure roller shutter doors. I also saw evidence of metal racking and materials consistent with the operation of a metal fabrication business.

13. Whilst the appeal building itself did not at the time of my visit appear to be directly utilised for the metal fabrication business, I noted the close physical and functional relationship between it and the adjoining and parallel buildings. The buildings share a single access point from the public highway and are joined by a large, formalised area of hardstanding. Substantial lockable sliding metal gates join the buildings at either ends, creating a single compound which, with lighting and a security camera installed, has a perceptibly industrial character. Viewed in this context, there is considerable doubt in my mind as to whether the appeal building is being used solely as an agricultural building as defined at Schedule 2, Part 3, Paragraph X of the GPDO.

14. My attention has been drawn to a series of invoices for straw and fertiliser, which the appellants submit have been stored in the appeal building. However, I note the delivery address in all cases was stated as Little Stone Farm on Exeter Road, which is some distance from the appeal site. As such, these documents do not demonstrate conclusively that the items were stored in the appeal building. There is some correspondence indicating that straw has been delivered to the appeal site but this does not constitute specific and substantive evidence. As such, I afford these documents little weight in my consideration.

15. The appellants acknowledge that the appeal building has been used for storage of a boat for a short period in 2014. In addition to this, I note the Council's photographic evidence dating from July 2013 and September 2014 at which times the appeal building appeared to be in use for general domestic storage purposes and for the splitting and storage of logs on a sufficiently large scale as to suggest that a commercial logging operation may have been taking place on the site. The Council's evidence also shows some storage of straw in part of the building in 2013.

16. At the time of my visit, the appeal building was being used for the storage of a range of items including farm vehicles, tyres, mechanical equipment and what appeared to be scrap metal. There was no evidence of the building being used to store straw or fertiliser. I also saw the extensive storage of logs. I do not have any evidence to indicate that the logs are a product of the established agricultural operation on the wider land holding, for example through a forestry business. This leads me to conclude that there is at least a partial use of the appeal building for general domestic or even possibly commercial storage use, alongside agricultural uses.

17. The appellants maintain that the appeal building has remained in solely agricultural use. However having regard to all of the above matters, I am not satisfied that this is borne out by the evidence before me. Consequently, on the balance of evidence, it is my view that it has not been adequately demonstrated that the appeal building has been used solely for an agricultural use as part of an established agricultural unit within the time period specified within Paragraph Q.1 of the GPDO.

18. For these reasons, I conclude that the proposal would not comply with one of the limitations and restrictions specified as being applicable to the proposed

development. As such, the proposal falls outside of the permitted development right provided under Class Q of the GPDO.

19. Since the proposal fails to satisfy this basic requirement, there is no need for me to make a determination on the merits of the case for prior approval, including whether the location or siting of the building would make the proposed change of use impractical or undesirable, as the appeal cannot succeed.

Conclusions

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

J F Powis

INSPECTOR