
Appeal Decision

Site visit made on 25 April 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 12 May 2017

Appeal Ref: APP/J0405/W/17/3167678

**Brick built store building, Valley Farm, Upper Pollicott, Ashendon
HP18 0HH**

- 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 R Lloyd against the decision of Aylesbury Vale District Council.
 - The application Ref 16/0194/COUAR, dated 20 May 2016, was refused by notice dated 21 July 2016.
 - The development proposed is confirmation that the conversion of an existing farm building to a dwelling may proceed as permitted development.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are:
 - 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); and
 - if it is, whether the development would be acceptable in terms of highway matters and whether the location of the building makes it undesirable for the building to change from agricultural use to a dwellinghouse.

Reasons

3. The appeal relates to a single storey mainly blockwork structure clad in brick, timber and stone with a clay tiled pitched roof.
4. 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.
5. The Council is satisfied that the proposal would meet the limitations of Q.1 (b) – (m) and I find no reasons to take a contrary position. The limitation in

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

- dispute is Q.1 (a) which 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.
6. The Council has provided evidence of a letter which was sent on 13 November 2012 to the owner/occupier of Valley Farm advising that the appeal building was in breach of planning regulations and that a planning application should be submitted to regularise the breach. Application reference 12/02812/APP was subsequently validated on 18 December 2012 and sought retrospective planning permission the demolition of the existing agricultural building and replacement with an agricultural building. The appellant confirms that at that time the building work had commenced but was not complete. This corresponds with the pictures stamp dated by the Council on 14 December 2012, which the appellant says were taken on 19 November 2012.
 7. The officer report of 24 January 2013 confirms that the building was in place approximately two months before 20 March 2013. However, it does not confirm that the building had progressed to a state of completion from the date of the aforementioned photographs. Indeed, the appellant has stated that immediately on getting planning permission on 1 February 2013, the building was finished (tiling and timbers but not doors). The key issue therefore is whether this work was carried out and the building subsequently used solely for agricultural purposes between 1 February 2013 and 20 March 2013.
 8. Based on the stage of construction shown in the photographs it is certainly possible that the building was completed during this period. If this was the case I agree that it is unlikely that it would not have been used. Moreover, I accept that the building could have been used for agricultural purposes even if the doors were not installed. However, I have no evidence that this is actually what happened, only supposition. The appellant has made reference to records on the Council's website for which it is stated demonstrates that the building was in use, but I have not been provided with this evidence. Moreover, there is an apparent contradiction here insofar as the appellant acknowledges that there is no record of the building in use. Whilst I sympathise that the appellant may not have thought to make such a record, it nonetheless remains that the evidential burden lies with the appellant to demonstrate that the proposed development complies with the relevant limitations. I find that the appellant's grounds of appeal do not provide the necessary persuasive evidence in this case.
 9. Q.1(a)(iii) deals with sites which were not in agricultural use on 20 March 2013, but began an agricultural use after that date. It states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an agricultural unit for a period of at least 10 years before the date development under Class Q begins. Therefore, even if the building was being used for agricultural purposes on 21 March 2013, it would not be possible to ascertain whether or not this limitation is met, and that the permitted development right applies, for a period of 10 years from that date.
 10. In light of the limited evidence, I cannot conclude with any certainty that the building was used solely for an agricultural use as part of an established agricultural unit on or before 20 March 2013. The proposal would not therefore meet the limitations of paragraph Q.1(a). 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.

11. 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