
Appeal Decision

Site visit made on 2 May 2017

by **B Bowker Mplan MRTPI**

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

Decision date: 25 May 2017

Appeal Ref: APP/Q1825/W/17/3167688

Bradley Green Barn, Land at Priestbridge (Field 3711), Church Road, Bradley Green, Redditch, Worcestershire B96 6TJ

- 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 J Coote against the decision of Redditch Borough Council.
 - The application Ref 2016/185/COUPRO, dated 1 June 2016, was refused by notice dated 16 September 2016.
 - The development proposed is conversion of agricultural building and associated land into a residential dwelling and curtilage.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the *Town and Country Planning (General Permitted Development) (England) Order 2015* (the 'GPDO') for the conversion of agricultural building and associated land into a residential dwelling and curtilage, at Bradley Green Barn, Land at Priestbridge (Field 3711), Church Road, Bradley Green, Redditch, Worcestershire B96 6TJ, in accordance with the terms of the application Ref 2016/185/COUPRO, dated 1 June 2016.

Application for costs

2. An application for costs was made by Mr J Coote against the decision of Redditch Borough Council. This application is the subject of a separate Decision.

Background and Main Issue

3. Class W of Schedule 2, Part 3 of the GPDO sets out the procedure for making such applications and for the consideration and determination of these by the local planning authority. Paragraph W (11) stipulates that development shall not begin before the occurrence of one of the following: (a) the receipt by the applicant from the local planning authority of a written notice of their determination that prior approval is not required; (b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or (c) the expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
 4. The application was submitted 1 June 2016 and the Council sent an acknowledgement letter dated 15 June 2016 to the appellant, confirming the start date as 1 June 2016. The acknowledgement letter also confirms that if no
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response is received by 26 July 2016, then the proposal will constitute permitted development. An email from the Council dated 5 July 2016 requested the submission of a Flood Risk Assessment which was provided on 14 July 2016. In addition, evidence of previous agricultural use was provided on 31 August 2016.

5. Under GPDO paragraph W (3b) the local planning authority has the power to refuse the application if the developer has provided insufficient information to establish whether the proposal is permitted development. However no decision was issued by 26 July 2016. Whilst GPDO paragraph W (9) allows a local planning authority to request additional information, the application was already valid, and thus the 26 July 2016 deadline remained. I note that the appellant agreed to a time extension on 21 September 2016. However, by this point the proposal had already received a deemed grant of approval. I also note that no concern is raised regarding the compliance of the application with GPDO paragraph W (2) and based on the evidence before me, I am satisfied the proposal meets these requirements.
6. In these circumstances, development within the scope of Class Q can go ahead as the GPDO grants deemed approval for such development where the Council fails to give notice of its decision within the prescribed period. However, I must be satisfied that the proposal complies with the restrictions set out in the GPDO at paragraph Q.1 and that it would fall within the scope of permitted development.
7. In its officer report and decision notice, the Council raise no concern regarding the proposal's compliance with the requirements of GPDO Q.1 sections b) to m). The Council's reason for refusal relates to the use of the appeal site and building, which it contends comprises non-agricultural uses.
8. Schedule 2, Part 3, Q.1 (a) of the GPDO is of relevance to this matter. Particularly pertinent is part (i) of Q.1 (a) which states development is not permitted if the site was not used solely for agricultural use on 20 March 2013.
9. Consequently, the main issue is whether the proposal would be permitted development as provided for by Schedule 2, Part 3, Class Q, Q.1 (a) of the GPDO, with particular reference to the use of the building on 20 March 2013.

Reasons

10. Based on its site visit, the Council consider that the site is currently in use for non-agricultural purposes. It is on this basis that consent was refused for the proposal. During my site visit I saw a number of sheep, hay bales, livestock feed, a pile of manure, and agricultural equipment inside the steel framed building. During my visit I did not see any HGV vehicles or signs of non-agricultural use. Consequently, based on my site visit observations, the appeal site is currently in agricultural use.
11. The Council state that there have been several similar appeal cases where the existing site use has been an influential factor. However, no specific cases are referred to or are before me. The appellant has provided copies of appeal decisions where the use of the site on 20 March 2013 was a determinative factor which supports this being the correct approach. Moreover, irrespective of the alleged current use of the site, the determinative factor is Class Q.1 (a) part i) of the GPDO which relates to the use of the building on 20 March 2013.

12. A letter submitted by the previous occupant of the field and barn states that the site was in sole use for chicken farming from December 2009 until June 2015. The current occupant states that since September 2015, the site has been in use for sheep farming and for the storage and agricultural equipment and machinery. The occupant states that this equipment includes grab lorries for clearing ditches and the storage of grab wagons, stored at the site when not in use.
13. The Council state that the appeal building was clearly built for agricultural purposes sometime after its consent in 2004. In addition, the Council note that the permission granted in December 2010 for the erection of poultry coops accords with the comments submitted by the previous site occupant (December 2009 – June 2015).
14. Although not raised as an issue in its decision notice and officer report, as part of its appeal submission, the Council assert that the evidence submitted by the appellant to demonstrate agricultural use on 20 March 2013 is inadequate. However, no evidence has been provided by the Council to challenge the appellant's case, nor is there any evidence before me that demonstrates the site was in non-agricultural use on this date. Consequently I find that the appellant's evidence is more compelling and conclude that the site was in agricultural use on 20 March 2013.
15. Therefore the proposal would meet the requirements of Schedule 2, Part 3, Class Q.1 of the GPDO, with particular regard to the use of the building on 20 March 2013.

Conditions

16. The Council consider that the consent should relate to Q.1 of the GPDO and that the conditions outlined at GPDO Q.2 should be attached to the consent; in particular matters relating to flood risk based on comments received from its relevant consultee.
17. However, GPDO paragraph W (12) (b) states that where GPDO subparagraph (11) (c) applies (the expiry of 56 days) the development must be carried out in accordance with the details provided in the application. Consequently, conditions requiring approval of matters outlined at Q.2, including flood risk, cannot be attached to the consent.
18. In granting approval, Paragraph Q.2 (3) stipulates that development shall be completed within a period of three years. As such, this condition applies to the proposal.

Conclusion

19. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be allowed.

B Bowker

INSPECTOR