
Appeal Decision

Site visit made on 31 May 2017

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 3rd July 2017

Appeal Ref: APP/B3410/W/17/3170228

Agricultural Building at Popinjay Farm, Stafford Road, Uttoxeter, Staffordshire ST14 8QA

- 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 Mrs KP Stockton against the decision of East Staffordshire Borough Council.
 - The application Ref P/2016/01456, dated 5 October 2016, was refused by notice dated 8 December 2016.
 - The development proposed is change of use of an agricultural building to single residential unit (part a only).
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q(a) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO) for the change of use of an agricultural building to single residential unit (part a only) at land at Agricultural Building at Popinjay Farm, Stafford Road, Uttoxeter, Staffordshire ST14 8QA in accordance with the terms of the application Ref P/2016/01456, dated 5 October 2016. The approval is subject to the condition that 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 GPDO and subject to the following additional condition:
 - 1) No development shall commence until:
 - (1) A detailed scheme for the investigation and recording of gas has been submitted to and approved in writing by the local planning authority;
 - (2) If gas is found, a report specifying the measures to be taken, including timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority.
 - (3) The development shall be carried out in accordance with the approved details and upon their completion a signed declaration that remedial targets have been achieved shall be submitted and approved by the local planning authority prior to first occupation of the development.
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Procedural Matter

2. In Part E of the appeal form it is stated that the description of development has changed. Neither of the main parties has provided written confirmation that a revised description of development was agreed. Moreover, on the basis of the evidence before me, that given on the application form is a more accurate description of what was applied for. Accordingly, I have used the description given on the original application.

Main Issue

3. The main issue is whether or not the proposed development is permitted development under Schedule 2, Part 3, Class Q(a) of the GPDO and, if so, whether or not it would require prior approval in respect of the accompanying conditions in paragraph Q.2.

Reasons

4. The appeal relates to the change of use of a steel portal framed agricultural building to one dwelling. The building is within a farmyard, with other agricultural buildings and a farmhouse nearby. I saw that the building is currently in use primarily for storage.
5. Schedule 2, Part 3, Class Q of the GPDO states that development consisting of: (a) 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 (b) building operations reasonably necessary to convert the building, is permitted development.
6. The Council's reason for refusal and evidence focusses on those matters addressed under Class Q(b) in terms of the scale and nature of the works that would be required to convert the building to residential use. However, Class Q.2(2) of the GPDO indicates that an application can be made for the change of use of the building and curtilage only. It is clear from the appellant's application form and supporting evidence that the application which constitutes this appeal was made on this basis. The appellant has also made it clear that it was always the intention to address matters under Class Q(b) with a separate application.
7. It is evident from the current condition of the building that a further application would be required. However, the GPDO does not state that where building operations are clearly intended or required that a Class Q(a) only application cannot be made. The approach of applying for Class Q(a) only is permissible under the regulations of the GPDO and the appellant can seek approval for the change of use without dealing with building operations. I have therefore considered the appeal on this basis.
8. Paragraph Q.1(a) – (m) of the GPDO sets out the relevant exceptions and limitations of the permitted development rights. The Council's officer report states that it is satisfied that the requirements of Q.1(a) have been met with regard to whether the site was used solely for agricultural use as part of an established agricultural unit on 20 March 2013. The Council has no objection either in relation to limitations (b), (c), (d), (e), (f), (g), (h), (j), (k), (l) and

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

- (m). On the basis of the written evidence and my site visit, I find no reason to conclude that there are any concerns in relation to these matters.
9. Although not expressed as such in their report, the limitation in dispute appears to be Q.1(i)(i). However, this relates to development under Class Q(b) and is thus not relevant to the determination of this appeal. Therefore, on the basis of the evidence before me, and accepting that the submission was made for Class Q(a) alone, I am satisfied that the change of use would not conflict with any of the limitations listed in paragraph Q.1 of the GPDO and would thus comply with the requirements of Class Q(a).
 10. For development to be permitted by Class Q(a) of the GPDO, it is also subject to a series of conditions regarding whether the development requires the prior approval of the Council. Paragraph Q.2(2) explains that where the development proposed is under Class Q(a) only, it must apply to the local planning authority for a determination whether prior approval of the authority will be required as to the items referred to in sub-paragraphs (1)(a) to (e) and the provisions of paragraph W.
 11. The appellant's submission seeks to address these issues and the Council has not disputed this evidence or raised any objections in relation to the effects of the development on transport and highways, noise, flooding or the location or siting of the building. There is nothing before me which would lead me to conclude that the development would fail to meet the requirements of the GPDO in respect of these factors.
 12. I have noted comments from Environmental Health officers in relation to the proximity of a quarry and potential for gas migration. Nonetheless, there is nothing in the response which suggests that the residential use proposed would not be acceptable in principle in this regard, or that any potential implications could not be mitigated. I am satisfied, in this regard, that this is a matter that could be dealt with by condition were the appeal to succeed.
 13. As a consequence, I am satisfied that in respect of Class Q(a) only, prior approval would not be required.

Other Matter

14. I have noted the appellant's arguments in relation to Class Q(b) in their evidence. However, I am satisfied that these were provided as rebuttal to the Council's argument only in the event that I considered assessment under Class Q(b) necessary. As such, there is no need to consider this matter further.

Conditions and Conclusion

15. Section W (13) of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. I have attached the standard condition set out in paragraph Q.2(3) on timescales, which requires development to be completed within 3 years of the decision date.
16. In addition, it is necessary to impose a condition requiring detailed investigation in relation to potential gas migration, and possible remediation, as suggested by the Environmental Health officer. I have amended the suggested condition in the interests of certainty and to remove references to factors that would be part of any agreed details.

17. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR