
Appeal Decision

Site visit made on 22 August 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 4th September 2017

Appeal Ref: APP/X1545/W/17/3176062

Land adjacent to Purleigh Law, Purleigh, Essex CM3 6TR

- 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 (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Seumas Ascott against the decision of Maldon District Council.
 - The application Ref COUPA/MAL/17/00232, dated 19 February 2017, was refused by notice dated 26 April 2017.
 - The development proposed is change the use of two of the existing gable roofed barn pairs and the land within their curtilage from agricultural to residential, to form two dwellings.
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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 (General Permitted Development) (England) Order 2015 (the GPDO) for the change of the use of two of the existing gable roofed barn pairs and the land within their curtilage from agricultural to residential, to form two dwellings at land adjacent to Purleigh Law, Purleigh, Essex CM3 6TR in accordance with the terms of the application Ref COUPA/MAL/17/00232, dated 19 February 2017 subject to the following conditions.
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: FC/17/01; FC/17/02; FC/17/03; FC/17/04; FC/17/06; FC/17/07; FC/17/09 Planning statement.

Main Issue

2. The main issue is whether the proposed development complies with the conditions, limitations and restrictions necessary to be permitted under Class Q of the GPDO.

Reasons

3. The proposal relates to two pairs of former pig sheds all essentially of the same design and dimensions. The buildings are relatively low level, rectangular block work structures with side-pitched roofs covered in asbestos sheeting, with entrance points at end gable end and windows along the sides. The two pairs are sited perpendicularly to each other and the four buildings are closely grouped to form a tightly arranged rectangle of development.

4. The four buildings are sited within a larger irregularly shaped parcel of land which has frontage onto Walton Hall Lane and contains surrounding disused farm buildings and areas of hard standing. The location is essentially rural containing a small number of neighbouring houses loosely arranged and facing the road.
5. The proposal is for two single-storey dwellings formed by the conversion of the two separately aligned pairs of buildings, each with a small curtilage defined. Neither of the building pairs are physically joined and so in the case of both the proposed dwellings the conversion involves bedroom/bathroom accommodation in one of each of the paired units and kitchen/living room accommodation in the others. There is a relatively small gap between each of the pairs, slightly narrower in the case of proposed Plot 1 compared to that in Plot 2.
6. Class Q of the GPDO permits the change of use from an agricultural building to Class C3 (dwellinghouses), and the building operations reasonably necessary to achieve the conversion, other than as not permitted in criteria set out in the following paragraph Q.1 and subject to conditions contained in paragraph Q.2. The latter includes the requirement to apply to the local planning authority as to whether its prior approval is required.
7. The Council's refusal of prior approval centres upon criterion (i) in paragraph Q.1 and I agree with Council that the proposal meets the remaining criteria for permission through Class Q. Criterion (i) specifies the extent of the building operations reasonably necessary to achieve the conversion. I interpret this requirement as necessary to ensure the development permitted by Class Q amounts to a conversion rather than a re-build in order to create the Class C3 development. If the operations were to amount to a rebuilding then the development would fall outside the conversion specified in the GPDO and not be permitted under Class Q, as held in *Hibbitt v SSCLG* [2016] EWHC 2853 to which the Council refers.
8. However the appellant's evidence is that the building operations proposed will only involve the replacement of elements including windows, doors and roof material, extending the existing phone, water and electricity supplies to service the barns and the addition and demolition of small sections of walls or roofs to facilitate the works. Although no structural survey is supplied the appellant considers the buildings to be sound and that the proposed works would be supported by the existing structures.
9. The Council's evidence refers to severe cracks in the walls of the buildings. However, those I noticed at my visit were on the surrounding disused farm buildings and no such visually obvious defects were apparent on the subject structures. From the evidence supplied and my inspection on site I am not persuaded that the proposal would involve a substantial re-build of the former pig units and the works outlined would not amount to building operations beyond those specified in Q.1(i).
10. The procedure for prior approval applications set out in Paragraph W of the GPDO had allowed the Council to require of the developer details of the proposed building operations reasonably necessary in order to determine the application. I am not aware that further structural information had been requested before the Council made the decision.

11. The case made by the Council further relates to the two proposed residential units not functioning as dwellings as each would be provided by two separate buildings. I agree that the proposals would not provide good living conditions for future occupiers as in each case there would be the need to cross a small outside gap to gain access between the bedrooms/bathroom and the main living room and kitchen. The Council also refers to lack of privacy whereby the transition space in Plot 2 would be overlooked by a bedroom window in Plot 1. It is also evident to me that the close arrangement of the four buildings would provide for a poor level of outlook from internal facing windows.
12. The Planning Practice Guidance (PPG) in paragraph 028 acknowledges that the requirements relating to prior approval are much less prescriptive than those relating to planning applications as the principle of the development has already been established. Therefore, the requirements should not seek to replicate those of the planning application system. Nevertheless, the advice in paragraph 105 of the PPG is that the building works allowed under Class Q assumes the agricultural building is capable of functioning as a dwelling. Whilst the living conditions would not be those appropriate were this to be determined as a planning application, I am not persuaded that as prior approval proposals that it would be reasonable to consider that either of the two residential units proposed, despite being split over two separate buildings, would be incapable of each functioning adequately as a dwelling.
13. The conditions for Class Q prior approvals set out in paragraph Q.2 require consideration of transport/highways and noise impacts, contamination and flooding risks, whether the location or siting of the building makes it otherwise impractical or undesirable for it to change from agricultural use to dwellings and of the design or external appearance. I can find no reason relating to any of these considerations why prior approval might not be granted.

Conditions

14. Under paragraph W prior approval may be granted subject to conditions reasonably related to the subject matter of the proposal. The Council has not supplied any suggested conditions. However, I have repeated the three year time limit for commencement applied under Class Q and, in the interests of certainty, included a second condition specifying the plans to which the prior approval is granted.

Conclusion

15. On the basis of the foregoing I find this proposal to comply with the conditions, limitations and restrictions necessary to be permitted under Class Q of the GPDO. Having taken into consideration all other matters raised I conclude that the appeal should be allowed.

Jonathan Price

INSPECTOR