



Appeal Decision

Site visit made on 4 December 2017

by S Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 12th December 2017

Appeal Ref: APP/C3105/W/17/3181784

Field Barn, Epwell Grounds Farm, Epwell, Banbury, Oxfordshire OX15 6HF

- 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 Bart Dalla Mura against the decision of Cherwell District Council.
 - The application Ref 17/00532/Q56, dated 6 March 2017, was refused by notice dated 3 May 2017.
 - The development proposed as set out on the application form is conversion of agricultural building into a dwelling house under Class Q part a. The building is a traditional brick building with pitched tiled roof. It is proposed to retain the structure (to ensure no extension) and the roof structure. It is proposed to remove the attached low quality tin lean-to. The site is not within any designated areas. Refer to Planning Statement.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Schedule 2, Part 3 Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) categorises as 'permitted development' the change from use as an agricultural building to use falling within Class C3 (dwelling houses)¹ subject to limitations.
3. For the purposes of this appeal I consider the main issue to be whether or not the proposal is permitted development under the GPDO; and, if it is permitted development, whether prior approval is required under the provisions of the GPDO.

Reasons

4. Development is not permitted under Class Q unless all the specified conditions are met. If they are not, the prior approval procedure would not be available.
5. Development is not permitted by Class Q(a) if the site was not used solely for an agricultural use as part of an established agricultural unit on specified dates. At Part 4 of the planning application form it is stated that "This building is used as a dry store for hay, straw and agricultural machinery". The accompanying Planning Statement states that the building is "... used as a dry store for the storage of agricultural materials in accordance with the adjoining land" and that

¹ Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended (the UCO)

"The site has been in continued agricultural use prior to and since 20th March 2013". On the basis of the available evidence I see no reason to doubt that the site, edged red on Plan Ref 3206-S1, was used solely for agricultural use on the specified date as set out at Q.1(a)(i).

6. Under Part 3, Paragraph W(2)(b) the prior approval application only needs to be accompanied by a plan indicating the site and showing the proposed development. This was provided with the application. However, the second part of Class Q(a) requires that the agricultural use of the site is **as part of an established agricultural unit** (my emphasis). The information I have seen is silent on the matter of the agricultural unit. I therefore find the evidence does not demonstrate that the agricultural use of the site is as part of an established agricultural unit.
7. Paragraph W(9) of the GPDO permits the LPA to require the submission of further information and the examples of information listed are not exhaustive. The appellants consider that the application, as submitted, contained sufficient information; that more could have been provided during the determination process; that they were unaware any more was required. I acknowledge that the Council could have requested additional information. However, it is for the appellants to demonstrate that the use of the site is as part of an established agricultural unit. Neither the application evidence, nor the subsequent appeal evidence, addresses this. In accordance with Paragraph W(3)(b) of the GPDO I conclude that insufficient information has been supplied to determine whether the proposed development complies with the conditions, limitations or restrictions that apply under Class Q.1(a).
8. Class Q.1(b), (c) and (f) contain other limitations that also link to an established agricultural unit (cumulative floor space; numbers of dwellings that can be developed under Class Q; and whether development comprising agricultural buildings and operations under Schedule 3, Part 6 Class A(a) or Class B(a) has been carried out). Whilst I see no reason to suppose that the current proposal alone would not satisfy these limitations, the evidence does not demonstrate that the cumulative limitations would be satisfied. Accordingly I conclude that insufficient information has been supplied to determine whether the proposed development complies with the conditions, limitations or restrictions that apply under Class Q.1(b), (c) and (f).
9. Class Q.1(d) and (e) relate to any tenancy of the site. I see no reason to doubt the appellants' statement that the site is not occupied under an agricultural tenancy agreement (Part 4 of the application form). I find no conflict with the limitations at Class Q.1(d) and (e).
10. The Council's second reason for refusal refers to Class Q.1(i). However, this relates to building operations for the purposes of Class Q(b). The appellant has made it clear that the application is under Class Q(a) change of use only. The appellants can seek approval for the change of use without dealing with building operations as the GPDO does not prevent this. I therefore find no conflict with the limitations of Class Q.1(i).
11. For the reasons set out above I conclude that insufficient information has been supplied to determine whether the proposed development complies with the conditions, limitations or restrictions of Class Q.1(a), (b), (c) and (f). In failing to demonstrate this, I conclude the proposal is not permitted development

under the GPDO. Accordingly I do not need to consider further whether prior approval is required, or should be granted.

12. The Council's fourth reason for refusal relates to whether the site is in an impractical and undesirable location. However, in the prior approval procedure, this matter would only fall to be considered where the proposal was found to be permitted development.

Other Matters

13. The Council's third reason for refusal related to the extent of the proposed curtilage for the dwelling. The Council has accepted that this issue could have been dealt with by condition².
14. Whether or not planning permission has been granted in the past has no bearing on whether the proposal is permitted development or not.

Conclusion

15. For the reasons set out above and taking into account all other relevant matters raised I conclude that the appeal should be dismissed.

SDHarley

INSPECTOR

² Paragraph 4.12 of the Council's Written Statement