



Appeal Decision

Site visit made on 14 December 2017

by B Bowker Mplan MRTPI

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

Decision date: 22nd December 2017

Appeal Ref: APP/R1845/W/17/3180731

Honey Brook Farm, Bridgnorth Road, Kidderminster DY11 5RR

- 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 W Rodenhurst against the decision of Wyre Forest District Council.
 - The application Ref 17/3020/PNRES, dated 23 March 2017, was refused by notice dated 22 May 2017.
 - The development proposed is change of use and conversion of agricultural building to form dwelling.
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Decision

1. The appeal is dismissed.

Background

2. Of relevance, Schedule 2, Part 3, Class Q and Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) set out the requirements in order for the proposal to be considered as permitted development. In addition, Section (3) paragraph 5 (a) of the GPDO sets out that permission granted by Schedule 2 does not apply if in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful. Should the proposal be considered permitted development, Class Q.2 of the GPDO lists a number of matters that require prior approval.
3. In the context of Section (3) paragraph 5 (a) of the GPDO, the Council's concern relates to the works undertaken to the north west elevation of the appeal building. Accordingly, the main issues are as set out below.

Main Issues

4. The main issues are:
 - whether the proposal constitutes permitted development, and if so;
 - Whether the proposal would require prior approval in respect of the accompanying conditions set out in paragraph Q.2.

Reasons

5. The appeal site is an agricultural building of metal frame construction with walls constructed from a mixture of concrete block, metal cladding and timber

boarding. The north west section of the building is covered by a roof that is help up by five posts and is open at three of its sides. The Council state that the north west elevation was constructed during the latter half of 2016 and that prior to these works the elevation was open. This is not disputed by the appellant.

6. With reference to the Town and Country Planning Act 1990¹, the appellant contends that the works undertaken at the north west elevation does not comprise "development" as it affects only the interior of the building and does not materially affect the external appearance of the building. Whilst the elevation is broadly in the center of the building, set behind five posts and beneath a pitched roof, it faces outside, with the adjoining section of the structure open on all of its sides. Thus I cannot agree that the works undertaken affects only the interior of the building. Moreover, as I saw during my site visit and with reference to the photographs submitted by the third party, the works have materially altered the building's external appearance.
7. Whilst I understand that the works were carried out for agricultural purposes, the Council state that no notification was provided for the works in accordance with Part 6 of Schedule 2 of the GPDO. In addition, no evidence is before me to demonstrate that the works undertaken are lawful in planning terms. Consequently, based on the evidence before me, the works to the north west elevation of the appeal building are unlawful.
8. The appellant asserts that the proposal would meet Class Q.1 (a) – (m) and prior approval matters listed at Class Q.2 of the GPDO. However the proposal would not constitute permitted development with reference to Section (3) paragraph 5 (a) of the GPDO.

Other Matters

9. Given that I have concluded that the proposal is not permitted development, it is not necessary for me to consider the prior approval matters listed at Class Q.2 which would not alter the outcome of the appeal.
10. It is highlighted that the lawfulness of the works undertaken to the north west elevation was not a reason for refusal in the previous application. However, I understand evidence of this matter was not before the Council when it determined the previous application. Moreover I must determine the appeal based on the submitted evidence.

Conclusion

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

B Bowker

INSPECTOR

¹ At Section 55 (2) of the Town and Country Planning Act 1990