
Appeal Decision

Site visit made on 28 November 2017

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

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

Decision date: 27th December 2017

Appeal Ref: APP/H1705/W/17/3179625

Ground floor of the barn south west of Folly Farmhouse, Thornford Road, Headley, Thatcham RG19 8AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Paragraph Q.1 of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
 - The appeal is made by Mr Jeff Day against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 17/00518/GPDADW, dated 11 February 2017, was refused by notice dated 10 April 2017.
 - The development proposed is the change of use of an agricultural building to a Class C3 dwellinghouse.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for the change of use of an agricultural building to a Class C3 dwellinghouse at the ground floor of the barn south west of Folly Farmhouse, Thornford Road, Headley, Thatcham RG19 8AH in accordance with the terms of the application Ref 17/00518/GPDADW, dated 11 February 2017.

Applications for costs

2. Applications for costs were made by Mr Jeff Day against Basingstoke & Deane Borough Council and by the Council against Mr Jeff Day. These applications are the subject of separate Decisions.

Procedural matter

3. The submitted details make it clear that the application refers only to the ground floor of the barn. I have made this explicit in the site description in the banner heading above.

Main Issues

4. The main issues are:
 - i) whether the proposal complies with the limitations set out in the Order, and

- ii) whether it is whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change to a use within Class C3.

Reasons

Compliance with limitations to Class Q

5. The deemed permission under Class Q applies only to agricultural buildings. The Council queries whether the building is an “agricultural building” within the meaning of the Order. Paragraph X of the Order deals with interpretation, and defines “agricultural building” as “a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business. Paragraph Q.1 of Schedule 2, Part 3 of the Order sets out circumstances in which development under this Class is not permitted. One of them is if the site was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013 (or on other dates in circumstances which do not apply here), hereinafter referred to as the “relevant date”.
6. The barn has been the subject of a previous appeal¹ following the refusal of an application for prior approval of the use of the barn as a dwelling. Specifically, the application sought the use of the first floor/mezzanine as the main living accommodation and part of the ground floor for garaging, secure cycle storage and general domestic storage. The Inspector found in that case that the building was not an “agricultural building” within the meaning of the Order, as part of the barn had been used as a dwelling, and therefore it fell outside of the permitted class of development.
7. This proposal is different, in that it relates solely to the ground floor of the barn, and not the first floor which had previously been used as a dwelling. The word “site” is defined in Paragraph X of the Order to mean “the building and any land within its curtilage”. In turn “building is defined in Article 2(1) of the Order as including “any part of a building”. Thus, in this case, the application relates only to the ground floor of the building and a small amount of external space, and the fact that the first floor was in non-agricultural use on the relevant date does not affect the “site” in this case, which does not include first floor.
8. On 13 September 2012 the Council issues two enforcement notices, one of which was directed to the use of the barn in question. The breach of planning control as alleged in the notice was the change of use of the barn to a mixed use for storage and maintenance of farm machinery, storage of grain and farm produce, and agricultural workers welfare facilities, use of the first floor for residential purposes and use of the barn for the storage of non-agricultural items including but not limited to domestic garden parasols, building materials, bicycles, domestic freezer and a dishwasher. Thus it was clear to the Council at the time that the notice was issued that many of the activities taking place within the barn were used for agriculture.
9. Folly Farm forms 111 hectares, primarily given over to the commercial production of camomile and peppermint. The barn is adjacent the farmhouse and at the time of my visit, the ground floor was occupied by a variety of machinery, tools and equipment which are typical of many farm stores. Part of

¹ Ref: APP/H1705/W/15/3002489

the ground floor included a fairly functional room containing a table, chairs, cupboards, next to a kitchen and toilet. This is consistent with the appellant's explanation that it is used for farm workers on the wider holding.

10. In his appeal decision² relating to the two enforcement notices (and a refused Section 78 application), the Inspector held that "The barn has been used for agricultural purposes since it was built and there is nothing before me to say that ceased at any point." Apart from the farm workers' facilities, I recognise that the building could be used in connection with the management of house and grounds of Folly Farm, but on the basis of what I gave read and seen, I am satisfied that has been used as part of an established agricultural unit, and that this part of paragraph Q.1 is satisfied.
11. The Council contends that that between 4 July 2012 and 28 June 2013 the building was not being used solely for agricultural purposes. However, in respect of the ground floor of the barn, this is not borne out by the evidence before me. The appeal decision referred to above was dated 28 June 2013. The Inspector on that case visited the site on 5 March 2013, some 15 days before the relevant date. The notice alleged the change of use of the barn to a mixed use for storage and maintenance of farm machinery, storage of grain and farm produce, and agricultural workers welfare facilities, use of the first floor for residential purposes and use of the barn for the storage of non-agricultural items including but not limited to domestic garden parasols, building materials, bicycles, domestic freezer and a dishwasher.
12. The notice was appealed on a number of grounds, one of which was that the matters alleged in the notice had not occurred. The Inspector recorded that the appellant accepted that parasols had been stored in the barn, along with other domestic items, and found as a matter of fact that the storage of non-domestic items reflected the matters alleged in the notice. It is not made clear from that decision notice whether the domestic items were stored in the ground floor part of the barn, but as the first floor was alleged to be in wholly residential use, that can be implied from the terms of the notice and the Inspector's reasoning.
13. What is of more relevance is that the Inspector did not refer to any non-domestic items being present when he visited the site. The appellant says that all non-domestic items were removed prior to the site visit. I consider that the existence of such items on the site visit would have amounted to incontrovertible evidence, and, almost inevitably, the Inspector would have referred to it had it existed, rather than relying on the appellant's admissions.
14. The Inspector's visit took place 15 days before the relevant date. The period for compliance with the enforcement notice expired on 28 December 2013, but the Council agreed to an extension to that period, expiring on 19 February 2014, at which time the Council noted that non-agricultural use had ceased. The appellant says that the extension of time was required in respect of the residential use of the first floor of the barn, not the non-agricultural use of the ground floor, and there is no evidence to refute this. Accordingly, on the basis of the material before me, there is no evidence that the ground floor of the barn was not solely in agricultural use on 20 March 2013, and there are insufficient grounds for concluding, on the balance of probabilities, that the building was not so used on that date. The Council's reports of use made of

² Refs: APP/H1705/C/12/2185766, APP/H1705/C/12/2185762, APP/H1705/A/12/2185759

the barn after 20 March 2013 are not germane in terms of assessing compliance with the limitation on the relevant date.

15. I therefore conclude on the first main issue that the proposal complies with the limitations of the Order.

Whether a C3 use would be impractical or undesirable

16. The lawful use of the first floor of the barn is agricultural. The appellant has indicated that the first floor of the barn would be used as staff welfare facilities, farm office, meat freezers and lightweight storage (eg relating to bee-keeping/honey making). He has also indicated that the dwelling would be occupied by a family member involved with the running of the farm. In such circumstances there would be a symbiotic relationship between the ground and first floor uses, and I consider that the close relationship between the barn and the main farmhouse would mean that family occupation of the proposed dwelling would be preferable.
17. However, I need to consider the future of the building over what is likely to be many decades, and the current intentions of the appellant cannot be guaranteed to hold in the long term. I therefore need to take into account that the building may be sold or otherwise occupied by someone with no connection to the farm, and the first floor may be put to other agricultural purposes.
18. Having said that, the first floor is reached by an internal staircase with a half-landing and a 180° turn. This makes it impractical to use it for keeping livestock, or heavy or bulky machinery or goods. The appellant says that it is a lightweight floor unable to accommodate heavy loadings and this too would limit its use for potential noisy activities. In my judgement, the first floor would be most likely to be suitable for the kind of activities suggested by the appellant or for low-key storage, that would be unlikely to result in continual movements in and out of the building due to difficulty of transporting goods, produce etc. up and down the stairs.
19. The conversion would need to comply with the relevant requirements concerning resistance to the passage of sound contained in the Building Regulations. In my view, whilst there is some small possibility of the agricultural use of the first floor resulting in some adverse impact, I consider that in the light of the configuration and nature of the first floor, that the prospect is small, and is an insufficient reason to render the residential use of the ground floor impractical or undesirable.
20. In this regard, I note that when considering a previous application for prior approval³, the Council found that the residential use of the ground floor below an agricultural use at first floor level would not be undesirable or impractical. This reinforces my conclusion on this issue that it would not be impractical or undesirable for the building to change to a use within Class C3.

Conditions

21. The Council has not suggested imposing any conditions. I consider that none are necessary over and above the standard condition set out in paragraph Q.2(3) of the Order.

³ LPA Ref: 16/01055

Conclusion

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

JP Roberts

INSPECTOR