



Appeal Decision

Site visit made on 15 January 2018

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2018

Appeal Ref: APP/J3720/W/17/3181141

Rushbrook Barn, Rushbrook Fields, Rushbrook Lane, Tanworth-in-Arden, Warwickshire B94 5HP

- 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 (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr James Fallon against the decision of Stratford on Avon District Council.
 - The application Ref 16/04025/COUQ, dated 13 December 2016, was refused by notice dated 9 February 2017.
 - The development proposed is the change of use of an agricultural building to one dwellinghouse, with associated curtilage.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3 and Schedule 2, Part 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO') for the change of use, with associated operational development, of an agricultural building to one dwellinghouse, with associated curtilage, at Rushbrook Barn, Rushbrook Fields, Rushbrook Lane, Tanworth-in-Arden, Warwickshire B94 5HP, in accordance with the details submitted pursuant to Article 3 and Schedule 2, Part 3, paragraph Q.2.(1) of the GPDO, through application Ref 16/04025/COUQ, dated 13 December 2016. The approval is subject to the following conditions, in addition to the standard condition at GPDO paragraph Q.2.(3) which specifies that development must be completed within a period of 3 years starting with the prior approval date:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: OS site location plan, block plan at 1:250 scale annotated with 'curtilage area: 150.236sqm', drawing nos. 00175/01, 02, 03, 04, 05, 06 and 07.
 - 2) Prior to the commencement of the development, details of the materials to be used in the construction of the external surfaces of the approved dwellinghouse shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Background and Procedural matters

2. Schedule 2, Part 3, Class Q of the GPDO ('Class Q') sets out 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); and (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3, is permitted development.
3. Whilst the description of the development on the application form refers only to a change of use, it is clear from the submissions that building operations are also proposed. In my formal decision I have therefore amended the description of the development adding the words 'associated operational development', which is in accordance with the Council's decision; and I have considered the scheme under parts (a) and (b) of Class Q. The Council's decision sets out that prior approval is refused, stating that the scheme would not be permitted development under the provisions of the GPDO.

Main Issues

4. The main issues are therefore:
 - i) whether the proposal would be permitted development under Class Q; and
 - ii) if it is permitted development, whether the impacts of the scheme would be acceptable with regard to the matters at Class Q paragraph Q.2.(1).

Reasons

Whether or not permitted development

5. Amongst other limitations, Class Q paragraph Q.1. sets out at (a) that development is not permitted if the site was not used solely for an agricultural use as part of an established agricultural unit - (i) on 20 March 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins.
6. At Q.1.(f) it states that development is not permitted if development under Class A(a) or Class B(a) of Part 6 of the Schedule has been carried out on the established agricultural unit since 20 March 2013. At Q.1.(i) it sets out limitations on the extent of building operations permitted under Class Q(b).
7. The Council agrees that, on the basis of satellite imaging, there has been a building on this site since at least 1998. However, both it and Tanworth in Arden Parish Council allege that prior to the submission of the application, significant works were carried out to the building to improve its structural stability. It is also claimed that it may not form part of an established agricultural holding.
8. The Council therefore maintains that the building was brought into use after 20 March 2013 and has not been used solely for the purposes of agriculture for a period of at least 10 years. It states that the scheme therefore fails to comply with the limitations at Q.1.(a), and that there are concerns as to whether it satisfies parts (f) and (i).

9. The existing building has concrete blockwork walls, with sections of timber cladding. I observed that its internal timber frame and corrugated roof sheeting appear to be fairly new. The appellant acknowledges that recent repairs have been carried out, and that the roof covering was replaced. However, in the absence of detailed evidence, I cannot be certain what other works have been carried out to the building, nor when such works may have occurred. On the basis of the limited information before me I cannot therefore conclude that the works that have been carried out to the building went beyond reasonable repair, or that the structure is tantamount to a new building.
10. The scheme was submitted with a structural examination report prepared by Shire Consulting which found that the existing building's blockwork walls and piers are in a good condition, and that the building is capable of taking the applied loading without any modifications. The existing blockwork walls will remain as part of the scheme, with a new brick wall proposed on the front elevation. Although a replacement tiled roof covering is proposed, I am satisfied that the existing building is structurally sound. No works other than windows, doors, roofs or exterior walls which are reasonably necessary for the building to function as a dwellinghouse, are proposed.
11. The building sits at the edge of a small group of agricultural fields, which were being used for sheep grazing at the time of my visit. The appellant has provided a plan of other agricultural land, including a dwelling and farm buildings, that he owns at nearby Little Bransons Farm, which I viewed on my visit. He has provided documentation from NFU Mutual confirming that its insurance covers the agricultural barns at Little Bransons Farm and Rushbrook Lane, together with letters from acquaintances and an email from his chartered surveyor, which indicate that the land on both holdings has been used for agricultural purposes for at least 28 years.
12. On the basis of the evidence before me and my on-site observations, I am satisfied that the appeal building and site was used solely for agriculture as part of an established agricultural unit on 20 March 2013, in accordance with paragraph Q.1.(a) of the GPDO. I have no cogent evidence to conclude that any recent works to the building went beyond what is permitted by Part 6 Class A(a) or Class B(a) of the GPDO. The scheme would therefore comply with the limitations set out at paragraph Q.1.(f); and it would also comply with the limitations set out at paragraph Q.1.(i). It is not alleged that the scheme would fail to comply with any of the other Class Q limitations and restrictions.
13. Consequently, irrespective of the alleged 'fallback' of an extant approval for the conversion of the building to a dwelling, I conclude that this scheme would be permitted development.

Other impacts

14. At Q.2.(1) the GPDO sets out that where the development proposed is development under Class Q(a) together with development under Class Q(b), it is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to — (a) transport and highways impacts of the development; (b) noise impacts of the development; (c) contamination risks on the site; (d) flooding risks on the site; (e) whether the location or siting of the building makes it otherwise impractical

or undesirable for the building to change from agricultural use to a use falling within Class C3; and f) the design or external appearance of the building.

15. Notwithstanding its conclusion that the scheme would not be permitted development, in its delegated report the Council has concluded in relation to each of those matters that there would be no unacceptable impacts, and that the scheme's location and siting would not make its change of use impractical or undesirable.
16. Given the Council's findings, on the basis of my visit, and in the absence of any evidence or representations to the contrary, I have no reason to find differently in relation to those issues. The scheme's impacts would be acceptable.

Conclusion and conditions

17. I have found that the proposal would be permitted development by virtue of Class Q. I am satisfied from the evidence before me that it would not have any significant impacts with regard to the matters identified at paragraph Q.2.(1).
18. At paragraph Q.2.(3), development under Class Q must be completed within a period of 3 years starting with the prior approval date. The Council has also suggested other conditions in the event that the appeal is allowed. It is a requirement of the GPDO that development be carried out in accordance with the details provided in the application. Consequently, the Council's third suggested condition stipulating that the permission be for conversion without rebuilding and major repair, is imprecise and unnecessary.
19. I note however that an amended drawing was submitted during the scheme's consideration by the Council, depicting a smaller curtilage around the building. In the interests of clarity and precision, I have therefore imposed a condition requiring that the development be carried out in accordance with the approved plans, including that amended drawing.
20. The building's proposed external materials are not identified on the approved plans, although a tiled roof is specified in the statement which accompanied the application. In the interests of ensuring an appropriate external appearance, I have therefore imposed a condition requiring the submission and approval of details of the building's external materials.
21. The Council has also suggested a condition requiring the submission and approval of a contaminated land phase I desk study report, in accordance with a recommendation by its Environmental Health Officer. However, although such a condition would be reasonably related to the subject matter of the prior approval, I have no persuasive evidence to support such a condition, nor any substantive information to indicate that former uses may have resulted in contamination on this site. Consequently, I have not imposed that condition.
22. For the above reasons, and having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR