



Appeal Decision

Site visit made on 8th January 2018

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2018

Appeal Ref: APP/C1570/W/17/3180301

Small Barn at Josephs Farm, Waldon Road, Springwell, Little Chesterford, Saffron Walden, Essex, CB10 1UE

- 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 (as amended).
 - The appeal is made by Mr and Mrs D Richardson against the decision of Uttlesford District Council.
 - The application Ref UTT/16/3419/PAP3Q, was refused by notice dated 8th February 2017.
 - The development proposed is the prior notification of change of use from agricultural building to 1 no. dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of the development from the Council's decision notice as this is more precise than the descriptions given in the application and appeal forms.

Main Issues

3. The main issues are:
 - (a) Whether the development would be permitted development under the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). In particular, whether the building would be within the curtilage of a listed building and thereby be excluded by Schedule 2, Part 3, Class Q.1 (m); and,
 - (b) If the proposal is permitted development under the provisions of Class Q of the GPDO, whether the development would meet the criteria of paragraph Q 2 (1) of the GPDO with specific regard to flood risk and the design or external appearance of the building.

Reasons

Permitted Development

4. The appeal property comprises of a 2-storey agricultural barn. This is believed to date from the 18th Century and is a 3-bay timber framed building. External

walls comprise of a brick plinth, with horizontal timber boarding and render and a pantile roof. The building is 'wrapped' around on 3 sides by single storey lean-to stables dating from the 1970's. These are brick built and would be demolished as part of the proposals.

5. The barn is located to the rear of Joseph's Farmhouse. Dating from the 17th Century, this is a 2-storey 3-bay timber framed dwelling with rendered and painted walls and a plain tiled roof. This building was Grade II listed on the 22 February 1980.
6. Class Q of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order¹ and any building operations reasonably necessary to convert the building. However, under Class Q.1 (m) this is not applicable where a building is listed.
7. Section 1(5) (b) of the Planning (Listed Building and Conservation Areas) Act 1990 (PLBCAA) states that any object or structure within the curtilage of the listed building which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948 shall be treated as part of the listed building. The appellant disputes that the barn should be considered as part of the listed building.
8. The barn is not expressly identified in the list description, however, contrary to the appellant's claims, this factor is not demonstrable that the barn is not listed; whether the building is 'curtilage listed' as per Section 1(5)(b) of the PLBCAA is a matter of fact and degree based on the evidence before me. Case law has established a number of tests which should be taken into account by a decision taker in defining the extent of curtilage. These comprise the physical layout of the listed building and the building in question, their ownership past and present, and their use or function past and present specifically whether the building was ancillary (i.e. subordinate to and dependent on) the purposes of the listed building at the date of listing.
9. The barn, in spite of alterations and additions, clearly pre-dates 1948 and, as confirmed by the submitted estate agent particulars (dated 1974 and 1983) the barn formed part of the farmstead which was in the same ownership of the farmhouse at the time of listing. The barn and farmhouse also remain in the same ownership today.
10. As demonstrated by the historic maps and the specialist assessment, the appeal barn was once part of a farmyard complex attached to the Joseph's Farmhouse, with a courtyard plan form. Prior to the building being listed in 1980, the 1979 National Grid Map shows that part of the range of barns to the south had been demolished, and the barn subject to the appeal was no longer physically connected to the farmhouse.
11. At my site visit, I saw that there is a formal rear garden area serving Joseph's Farmhouse. This extends to an access track which runs in-between the garden and the barn. The garden area is demarked by a low picket fence and vegetation. However, based upon the evidence before me, this area was not used or defined in this way at the time of listing. The appeal barn faces

¹ SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended.

inwards towards the rear of the farmhouse and is in proximity to this. Both sets of the Estate Agent particulars indicate that the area between the farmhouse and the barn was open.

12. Specifically, the photograph on page 8 of the 1974 particulars clearly shows the open area between the farmhouse and the barn. Within the 1983 particulars the garden is described as being to the front and side of the farmhouse and this document notes that *"to the rear of the property facing east is a well maintained grassed area leading to various farmbuildings."* I therefore consider that there was no clear distinction between the farmhouse and its curtilage and the central yard with its buildings, including the appeal barn at the time of listing.
13. Moreover, as demonstrated on the 1877 County Series map, an access has historically been in place to the top corner of the barn, leading into the central yard area. This access has been the subject of much change; the photograph in the 1974 particulars shows no access in this location but this was later reinstated as per the 1979 map, which depicts an access track in front of the barn, leading to the lane to the south as well as from the north between the barn and separate cart sheds. The access was then later altered again to the north post-1986. Given the longstanding nature of an access track, albeit in an altered form, I do not consider that the presence of an access track severs the house from the barn. Overall, I consider that at the time of listing, the layout was as such that there was a very clear spatial relationship between Joseph's Farmhouse and the appeal barn.
14. In terms of function, a number of submissions from local residents have been made which attest to the longstanding agricultural use of the building and my site inspection confirmed that the barn is in use as storage for agricultural equipment. However, due to the configuration, proximity and scale and nature of the enterprise, I consider that the farmhouse and barn would have been functioning and operating together as a small farmstead at the time of the listing and as such the barn is clearly ancillary to the farmhouse.
15. My attention has been drawn to the Jews barn judgement² where it was found that the barns were not being used for purposes that were ancillary to the use of the farmhouse as a dwelling house as they were being used for the purposes of the general farming enterprise which was being carried on at Jews Farm. Accordingly the courts held that while the farmhouse was listed, the farm as a whole could not sensibly be regarded as being within its curtilage.
16. From my reading of this case, the degree of separation was a significant factor in the judgement as was the fact that the separate and distinct functions were reinforced as farmhouse was sold very shortly after it was listed, while the farm operation continued from another dwelling.
17. Historic England's Advice Note 'Listed Buildings and Curtilage' (consultation draft) dated 27 January 2017 sets out hypothetical examples to assist in the assessment of curtilage, including for farms, and references the Jews Barn judgement. The document advises that in light of case law, for farm buildings the facts in each case will always need to be considered carefully. A close physical relationship (such as around a courtyard) or a close relationship in use

² R (on the application of Egerton) v Taunton Deane Borough Council [2008] EWHC 2752 (Admin)

may be a 'steading' and outbuildings of that type in that arrangement may well fall within the curtilage of a farmhouse.

18. I do not therefore consider the judgement to be directly comparable to the appeal proposals. The facts of the case before me are materially different and on the basis of the submitted evidence, there is a clear functional relationship of the barn with the farmhouse as a steading at the time of listing.
19. Overall, in the light of the evidence before me, the ownership, physical layout and the use and function of the buildings is as such that the barn falls within the curtilage of Joseph's Farmhouse. I therefore conclude that the appeal building should be considered as part of the listed building as per section 1(5)(b) of the PLBCAA. Consequently, it is development for which an application for planning permission is required. Such an application would be a matter for the local planning authority to consider in the first instance.

Flood risk and design or external appearance of the building

20. Based upon my findings above, it is not necessary for me to consider this further.

Other Matters

21. Concerns are raised by the appellant regarding the Council's handling of this application and appeal, including a lack of appeal statement. However these are matters of procedure and have no bearing on my assessment of the appeal based upon its planning merits.

Conclusion

22. Overall, I conclude that the proposal would not comply with the limitations and restrictions specified as being applicable to the proposed development under paragraphs Q.1(m). Accordingly, I therefore conclude that it could not benefit from deemed permission under Class Q of Schedule 2, Part 3 of the GPDO 2015 (as amended).
23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

C Searson

INSPECTOR