The Planning Inspectorate

Appeal Decision

Site visit made on 9 October 2018

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2018

Appeal Ref: APP/H1840/W/18/3198836
Barn at Corner Cottage, Lower Lane, Kinsham GL20 8HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Mr H Hall against the decision of Wychavon District Council.
- The application Ref 18/00021/GPDQ, dated 4 January 2018, was refused by notice dated 1 March 2018.
- The development proposed is change of use of agricultural building to residential and associated operational development.

Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the Council's decision was issued the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 (the GPDO 2018 amendment) has amended Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). However, the amendments do not affect the matters concerning this appeal.

Main Issue

3. The main issue is whether or not the proposed development would constitute permitted development in respect of Class Q of Schedule 2, Part 3 of the GPDO as amended by the GPDO 2018 amendment.

Reasons

4. Schedule 2, Part 3, Class Q of the GPDO sets out in the GPDO 2018 amendment that development is classed as permitted development if it consists 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) of the Schedule to the Use Classes Order; or (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of that Schedule. This is subject to a number of situations where such development is not permitted, listed under Q.1, and to conditions in Q.2 setting out the matters for which an application to the local planning authority for determination as to whether the prior approval of the authority will be required.

5. Firstly, it is not disputed by the Council and appellant that the proposed development would relate to land all of which is within the curtilage of the building concerned and, based on the submissions, I have no reason to consider otherwise. In respect of paragraph Q.1, the only issue raised by the Council is in relation to the exclusion in paragraph Q.1(a). I have no reason to conclude differently in terms of there not being any other relevant exclusions for consideration. The question relates to whether the site was 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.

6. From the submissions, it is evident that the land originally relating to Corner Cottage Farm, to which the appeal site is associated, was no longer in active use for agricultural purposes on 20 March 2013, with horticultural activities having ceased a number of years before. It is also stated that its use in connection with bee keeping continued to nearer that date. However, it is unclear as to whether that activity was such as to constitute a trade or business. That lack of active agricultural use remains evident. Furthermore, the original farmhouse comprising Corner Cottage and its associated garden is also now clearly segregated by fencing from the rest of the remaining land and confirmed by the appellant as being under separate ownership since 2017.

7. The original agricultural unit is therefore not intact and the remaining land is not supported by the original farmhouse. That remaining land now comprises a significant number of trees, most of which I was unable to distinguish as being of a horticultural type in the absence of details to the contrary, an open grass area, and a field containing horses at the southern end. It is unclear as to whether that field is being used solely for grazing horses or whether it involves activities other than putting them out to graze.

8. The appellant states that since 2010 the building concerned has been little used except for storing a small amount of agricultural maintenance equipment and redundant equipment associated with horticulture and bee keeping. At my site visit I saw that the equipment stored in the appeal building included that which could be reasonably be expected as necessary to maintain the remaining land referred to above but it was not clear as to the extent to which it related to any former agricultural operation.

9. It is claimed by the appellant that on 20 March 2013 the agricultural unit retained an agricultural use, albeit not active. However, based on the above circumstances and my observations, I cannot be certain that no other, non-agricultural, use of the site and land it relates to has occurred since the cessation of active horticultural use, including on 20 March 2013 and currently.

10. For the above reasons, despite no evidence of any formal approval having been granted for a change to any other use, I cannot be certain that the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013 or that the use, at least in part, has not changed to another since. I am therefore unable to conclude that the proposal would be permitted development, having regard to Class Q.1(a) of the GPDO. As such, the proposed development would not constitute permitted development in respect of Class Q of the GPDO.

11. Consideration in relation to prior approval is a follow-on condition stage under paragraph Q.2, which can therefore only apply if the development is otherwise permitted development.

Conclusion

12. For the above reasons, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR