



Appeal Decision

Site visit made on 28 May 2019

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 26 July 2019

Appeal Ref: APP/E3525/W/19/3222585

Halfway House Farm, Stoke Road, Clare, Sudbury, Suffolk CO10 8HH

- 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 and Mrs Peter McKenny against the decision of St Edmundsbury Borough Council.
 - The application Ref DC/18/2068/P3QPA, dated 10 October 2018, was refused by notice dated 5 December 2018.
 - The development proposed is described as a 'Prior Approval Application under Part 3 of the Town & Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015 - (i) Change of Use of agricultural building to dwellinghouse (Class 3) to create 1 No Dwelling (ii) associated operational development'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above differs from the description provided within the application form. However, both the Council's decision notice and the appeal form provide a matching description for the proposal which is shorter and more precise than that given within the application form. I have therefore used this in the heading above.
3. On 1 April 2019 St Edmundsbury Borough Council merged with Forest Heath District Council to become a single Authority known as West Suffolk Council. However, given that this appeal concerns the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) rather than the Council's development plan, this has had no bearing on my decision.
4. Since the application was submitted there have been amendments made to the GPDO¹. However, as I can identify no changes to the elements of Schedule 2, Part 3, Class Q of the GPDO (henceforth referred to as Class Q) which materially alter their bearing on the issues in this appeal, neither party has been prejudiced by my consideration of the revised GPDO.

¹ 2019 No. 907

Main Issues

5. The main issues are:

- whether or not the proposal would constitute permitted development having regard to the requirements of paragraph Q.1 (a) of Class Q; and
- if so, whether or not prior approval is required with regard to matters (a) to (f) of paragraph Q.2 (1).

Reasons

Agricultural Use

6. Class Q 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) and any building operations reasonably necessary to convert the building. Development is not permitted by Class Q.1 (a) (i) and (ii) where a building and any land within its curtilage was not used solely for an agricultural use, as part of an established agricultural unit, on 20 March 2013 or, 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.
7. Schedule 2, Part 3, paragraph X of the GPDO sets out that an 'established agricultural unit' for the purpose of Class Q means agricultural land occupied as a unit for the purposes of agriculture, on or before 20 March 2013 or for 10 years before the date the development begins. Furthermore, 'agricultural building' means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business, and 'agricultural use' refers to such uses. 'Agriculture' as defined in Section 336, paragraph (1) of the Town and Country Planning Act 1990 (as amended), amongst other things, includes the breeding and keeping of livestock (including any creature kept for the production of food).
8. The block plan shows the barn which is the subject of this appeal to be on a small plot that is part of a larger site including a Grade II listed farmhouse. The barn is constructed of corrugated metal sheet walls under a pitched roof of a similar material.
9. Halfway House Farm was given an Agricultural Holding Certificate in 1983. It would appear that the barn has been used in association with a chicken rearing and egg production business at this holding at some point in time. I am satisfied that this constituted an agricultural use. However, the evidence before me indicates that the barn has been redundant from this use for a considerable period of time, having last been used for agriculture in the 1990's. There is also no detailed evidence before me regarding any agricultural trading activities or financial information in relation to such activities at the site beyond 1989. Consequently, I have no substantive evidence to show that the business at the agricultural unit was operational on 20 March 2013, or during any of the 10 years prior to that date. I therefore cannot be certain that the agricultural use of the barn has not been abandoned.
10. The application form shows that the barn is currently used for 'very limited storage'. The evidence before me illustrates that this is partly for domestic household items. This is consistent with my observations on site. I appreciate that the barn is within close proximity of a dwellinghouse and that some small

scale storage of domestic paraphernalia may not result in a material change of its use. Nonetheless, the current use, whether lawful or otherwise, does not assist me in establishing whether or not the barn was in agricultural use on the date specified within Class Q.

11. Since the cessation of the chicken rearing and egg production business, I also note that the barn has been used as an overspill grain storage facility for a family member who farms nearby land. However, I have no definitive evidence about when this occurred, or the nature of this family member's agricultural business, to assess whether or not it would meet the requirements of Class Q set out above. This therefore provides little support in terms of the proposal's compliance with Q.1 (a) of Class Q.
12. Under paragraph Schedule 2, Part 3, Paragraph W. (3) of the GPDO, an application may be refused where the developer has provided insufficient information to enable it to be established whether the proposed development complies with any conditions, limitations or restrictions as may be applicable to the development in question. The evidential burden lies with the appellant. Although the Council's third reason for refusal references a historic agricultural use, the information before me does not demonstrate that, on the balance of probability, the building was used for agriculture for the purposes of a trade or business as part of an established agricultural unit on 20 March 2013 or for 10 years prior to this date. Neither can I be certain that the barn meets the definition of an 'agricultural building'. Accordingly, I am not satisfied that the proposal would meet the requirements Class Q, including Q.1 (a), and prior approval should therefore not be given.

Prior Approval

13. Given my conclusion in relation to the first main issue, there is no need for me to consider compliance with any other part of paragraph Q.1 or any prior approval matters under Q.2 as it would not alter the outcome of the appeal.

Conclusion

14. For the reasons set out above, I am not satisfied that the proposal meets the requirements of Class Q. I therefore conclude that the proposal is not permitted development under the provisions of this Class and that the appeal should be dismissed.

M Heron

INSPECTOR