



Appeal Decision

Site visit made on 3 April 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 16 August 2019

Appeal Ref: APP/J0405/W/18/3212712

Monkcomb Farm, Winslow Road, East Claydon, Bucks MK18 2LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval 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 E Bullman against the decision of Aylesbury Vale District Council.
 - The application Ref: 18/02245/COUAR, dated 2 July 2018, was refused by notice dated 24 August 2018.
 - The development proposed is the determination as to whether prior approval is required in respect of transport & highway impact, noise, contamination risk, flooding and locational considerations for the conversion of an agricultural building into 4 dwellinghouses (Class Q(a)) and in relation to design and external appearance of the building (Class Q(b)).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description of development provided by the Council on the decision notice as this more accurately reflects the proposal.
3. The application was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended (GPDO), in which prior approval for the change of use of an agricultural building to four dwellings was sought.

Main Issues

4. The main issues are whether the proposal would be permitted development under Class Q, subject to the prior approval of certain matters and, if so, the effect of the proposal with regards to transport and highway impacts.

Reasons

Whether the proposal would be permitted development

5. 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) of the Schedule to the Use Classes Order¹ and any building operations reasonably necessary to convert the building.

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

6. Paragraph Q(1)(i) places restrictions on the building operations which can be undertaken and in particular, it states that development is not permitted if it would consist of building operations other than: i) the installation or replacement of- (aa) windows, doors, roofs or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out building operations.
7. Paragraph 105 of the Planning Practice Guidance² provides further clarification. It states that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. In this instance, the Council contends that the proposed building operations fall outside of the scope of Class Q. It is not disputed that works were undertaken to various buildings before the submission of the application for prior approval.
8. The Council considers that the works were done in preparation for the residential conversion to satisfy a test of being structurally sound. However, based upon the evidence presented to me, in the letter dated 8 June 2018 the Council confirmed that no breach of planning control had been detected. Although this letter is somewhat brief in its conclusions, a reasonable interpretation must be that the Council had concluded that either no development took place or that if development did occur consent was not required.
9. As such the evidence presented to me does not support the position that the building operations which form part of the appeal proposal had commenced. The Council are now seeking to argue that their letter dated 8 June 2018 was not written in the knowledge of all relevant facts, namely that the appellant would subsequently be submitting an application for prior approval. Be that as it may, the letter from the Council's Enforcement Officer made a definitive statement. The Council has referred me to another appeal decision³. However, this relates to an appeal involving a lawful development certificate and the circumstances are not comparable to the matter before me.
10. At the time of my site visit the buildings matched the existing plans submitted and the building operations proposed do not exceed those permissible under Class Q.
11. However, a key consideration in this case is whether the appeal buildings were used solely for an agricultural use as part of an established agricultural unit on the 20 March 2013.
12. In 2005, an application⁴ for the conversion of agricultural buildings (Barns A, B and C) to Use Class B1 and B8 was granted. The appellant states that the B1 and B8 uses were not implemented, However, plans accompanying subsequent prior approval submissions detail Barn C as 'This building retained in lawful B1/B8 use'⁵in 2015 and then, in 2016, a slightly different wording detailed Barn C as 'Building retained in B1 Use'⁶. Accordingly, these plans amount to evidence that was previously submitted and as such casts doubt on whether

² Reference ID:13-105-20180615

³ Appeal references APP/J0405/X/17/3187267 and APP/J0405/W/17/3187268, dated 1 November 2018

⁴ 04/01199/APP

⁵ Ref: 15/00386/COUAR

⁶ Ref: 16/04511/COUAR

the buildings, or any individual building, was likely to have been in agricultural use at the prescribed date.

13. Notwithstanding that recent investigations by the Council's Enforcement Officer have concluded that the buildings are currently in agricultural use, I am not satisfied that there is any substantive evidence before me to verify that the appeal site was in agricultural use on the 20 March 2013. Accordingly, I conclude that the proposed change of use would not satisfy the requirements of Class Q of the GPDO and therefore is not development permitted by it.

Other Matters

14. Given my findings that the change of use would not be development permitted under Schedule 2, Part 3, Class Q of the GPDO, there is no need for me to go on and consider the prior approval matters of transport and highway impacts as this would not alter the outcome of this appeal.

Conclusion

15. For the reasons given above and based on the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO, as amended.
16. Therefore, the appeal must be dismissed.

E Brownless

INSPECTOR