



Appeal Decision

Site visit made on 10 September 2019

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 02 October 2019

Appeal Ref: APP/P0119/W/19/3229584

Hall End Barn, Hall End Lane, Wickwar GL12 8PD

- 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 Mrs Angela Bracey against the decision of South Gloucestershire Council.
 - The application Ref PK18/4993/PNGR, dated 1 November 2018 was refused by notice dated 10 December 2018.
 - The development proposed is proposed conversion of an existing barn building (agricultural barn) into a residential dwelling.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal proposal relates to the conversion of a redundant barn building, located at the end of an access track in a paddock situated in the open countryside beyond Rangeworthy.
3. The application was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). Class Q of the GPDO permits 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) of the Schedule to the Use Classes Order; and (b) building operations reasonably necessary to convert the building.
4. The Council considers that the proposal fails to comply with the provisions of GPDO Q.1(a), which provides that such development is not permitted by Class Q if, amongst other things, the building was not solely for an agricultural use as part of an established 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. The Council also consider that the proposal fails to satisfy GPDO Q.1(b) in that the physical works to carry out the proposed change would go beyond the building operations reasonably necessary to convert the building.
5. The main issues are therefore whether the proposal would be permitted development (PD) under Schedule 2, Part 3 Class Q of the GPDO; and, if so, whether or not prior approval should be granted.

Reasons

Agricultural use

6. For the purposes of Part 3, GPDO Paragraph X defines 'the site' as the building and any land within its curtilage; 'agricultural building' to mean a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade business; while 'agricultural use' refers to such uses. The interpretation of 'established agricultural unit' is 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.
7. The use of the building on 20 March 2013 or the last use before that date is described in application Ref PK18/4993/PNGR as 'barn'. The appellant contends that Class Q does not require the appellant to state which agricultural unit an agricultural building is part of, nor its size. However, whether or not the site or building was used solely for an agricultural use as part of an established agricultural unit on or before the relevant date is a question of fact to be determined on the evidence provided.
8. A Statutory Declaration dated 23 May 2019 has been submitted. The appellant's appeal statement explains that the signatory to the Statutory Declaration is a local arable farmer. However, there is no express mention within the Declaration as to which agricultural holding the use of the appeal building was related. Moreover, while the signatory may not themselves have used the appeal building for any purposes other than for agricultural use, the Declaration does not state that the appeal building was in fact in use by them for agricultural purposes on 20 March 2013. In spite of the Statutory Declaration, the evidence provided does not give necessary certainty that the appeal building was solely in agricultural use on 20 March 2013 or that it was part of an agricultural unit.
9. The building is not currently in use and I saw it to be empty. In order to qualify for permitted development rights under Class Q, the building must have been in agricultural use on, or at some date before, 20 March 2013. It would still qualify if it was no longer used for agricultural purposes, provided it has not been used for any other purpose since ceasing to be used for agriculture.
10. The Council have provided photographs taken in November 2018 that indicate the building was used for the storage of domestic items. These findings are reinforced by the appellant's Structural Inspection Report, July 2018 (structural report), which identifies that the building was at that time in use by the owner to store materials, plant, and machinery used on the estate.
11. These observations post-date the relevant date; there is no planning history of any alternative use, or enforcement action over any intervening use. These matters notwithstanding, in the absence of convincing evidence that the items stored were for agriculture, it must be assumed that the appeal building has, at least in part, been put to use for some other use. Class Q does not permit any intervening use, or mixed use, however short-term.
12. Based on the evidence before me, I am not satisfied that either the use of the building or the site complies with the requirements of paragraph Q.1(a) of the GPDO. The permitted development rights conveyed by Class Q of the GPDO therefore do not apply.

Physical works

13. Class Q(b) of the GPDO states that development consisting of building operations reasonably necessary to convert an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes

Order is permitted development. Paragraph Q.1(i) states that development is not permitted under Class Q if the development would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls or water, drainage, electricity, gas or other services to the extent reasonably necessary to carry out the building operations set out above.

14. Paragraph: 105 Reference ID: 13-105-20180615 of the Planning Practice Guidance (PPG) clarifies 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. Although some permitted development rights allow for limited physical works to carry out the change of use, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
15. The barn itself is of some vintage, estimated c. 1500, constructed of random rubble-stone, with an opening on its north elevation. The internal floor consists of compacted soil, cobbles and a poured concrete threshold. The pitched corrugated-fibre roof is supported on an A-framed timber roof structure of relatively recent construction. Below the roof structure are substantial timbers that span the width of the building and tie into the principal north and south elevations. Based on my own observations, the appeal building appears to be in a state of serious disrepair, containing numerous and significant-looking defects within its gable walls, while the corner between the south elevation and south west elevation is missing entirely.
16. The appellants have provided a structural engineer's report on the structural condition, and subsequent structural analysis, made on the basis of visual observations. The recommendations within the structural report and analysis emphasise that there is currently a serious lack of integrity within the existing structure and that 'localised rebuilding is necessary in various locations', this includes the gable walls. The condition of the building as I saw it, as well as the structural engineer's throws considerable doubt on its being capable of conversion to residential use.
17. The PPG establishes that it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors or internal walls. The laying of a new floor slab to provide a moisture resistant barrier, internal partitions and insertion of a first floor would be the type of work permitted under Class Q. In this case, however, the internal structural works would not just be related to residential conversion but are evidently necessary to carry the stone walls and a 'loadbearing inner structure'. The new slab would be 'toothed' into the external walls and stabilised by the use of drilled and resin-fixed anchors as reinforcement. Essentially, therefore, the existing building would function as a shell to an entirely new structure that would carry all the roof and floor loads as well as necessary stability to the existing walls.
18. Irrespective of whether the Council have commissioned their own structural survey, it is clear from my own observations on site that the existing structure is incapable of withstanding conversion without some rebuilding along with a complete overhaul in how the structure is supported. Albeit that new structure would be internalised, such works would not comprise 'conversion'.
19. Furthermore, the submitted 'Existing Floor Plans and Elevations' do not show the extant substantial tie-beams. The engineer's report indicate that the

beams would be at future floor level but their height not appear to correspond with the first-floor level shown on the 'Proposed Floor Plans & Elevations'. The inconsistencies and lack of details within the submitted plans serve to cast further doubt over the works that would be undertaken to facilitate a change of use.

20. The proposed building operations to create a dwellinghouse would not fall within the scope of those permissible within paragraph Q.1(i) of the GPDO. Accordingly, they would not comprise permitted development under Class Q (b) of the GPDO.

Curtilage

21. The submitted 1:1250 site location plan outlines in red the site, which comprises the appeal building, a portion of land to one side of it and the access track that leads to it off Hall End Lane. Whilst I note that the area shaded red on the proposed plan is intended to show the area connecting the existing tract with the garden and parking area, the drawings do not give necessary certainty for the purposes of Class Q and the meaning of "curtilage" within paragraph X of the GPDO as (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building.
22. On the first main issue, therefore, I conclude that the proposal would not be permitted development under Schedule 2, Part 3 Class Q of the GPDO. As such, there is no requirement for me to consider the matters for which prior approval is required under Paragraph Q.2(1).

Other matters

23. My attention is drawn to another building in the locality where the Council has determined that prior approval is not required under Class Q. However, it seems to me that this application has no bearing on my findings in this appeal, which is essentially a judgement based on the facts of the case, my own observations whilst on site and the correct application of the regulations.

Conclusion

24. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

H Porter

INSPECTOR