The Planning Inspectorate

Appeal Decision

Site visit made on 20 August 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4TH October 2019

Appeal Ref: APP/R2520/W/19/3225016

Existing barn, land off Sycamore Close, Branston, Lincoln, Lincolnshire, E: 501984, N: 368113. Nearest Postcode LN4 1QG

- 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 Robert Smith (Brookbank Developments) against the decision of North Kesteven District Council.
- The application Ref 18/1670/PNND, dated 4 December 2018, was refused by notice dated 24 January 2019.
- The development proposed is prior approval for change of use from agricultural building to house.

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the appeal form as the description contained in the Notification for Prior Approval form was incomplete.

3. The Planning Practice Guidance (PPG) advises that the starting point for Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(GPDO) is that the permitted development rights are a grant of planning permission, subject to the prior approval requirements. Therefore, it is necessary in the first instance to determine whether the proposal falls within the scope of permitted development.

4. Class Q of the GPDO states that development consisting of Q(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 of the Use Classes Order[1]; and Q(b) building operations reasonably necessary to convert the building, is permitted development.

5. Where development is proposed under Class Q(a) together with Class Q(b), and found to be permitted development, it is subject to the condition under paragraph Q.2(1) that before beginning the development, an application must be made to the local planning authority for a determination as to whether the

[1] The Town and Country Planning (Use Classes) Order 1987 (as amended)

prior approval will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building.

6. The Council considers that the appeal building and land surrounding it is not being used for agricultural purposes and does not meet the requirements of paragraph Q.1(a) of the GPDO, thus the proposal is not permitted development. The Council also contends that the cumulative total of the building works proposed to facilitate the residential use would fail to comply with the limitations set out in paragraphs Q.1(h) and Q.1(i) of the GPDO. In this regard, they also consider that insufficient information has been provided in order to demonstrate that the necessary infrastructure could be provided to the proposed dwelling, contrary to paragraph W of the GPDO.

Main Issues

7. Having regard to the above, the main issues in this case are:

- Whether the proposal would be permitted development, having regard to whether the requirements of Schedule 2, Part 3, Class Q paragraph Q.1(a) of the GPDO would be met; and,
- Whether the extent of the building operations proposed would be reasonably necessary to convert the building to a dwelling, having regard to the requirements of the GPDO.

Reasons

Permitted Development

8. Paragraph Q.1(a) of the GPDO requires that the site must have been used solely for an agricultural use as part of an established agricultural unit on 20 March 2013 or, if the building was in use before that date but was not in use on that date, when it was last in use. Paragraph X of the GPDO defines an 'agricultural building' as one used for agriculture and which is so used for the purposes of a trade or business. An 'agricultural use' refers to such uses. An 'established agricultural unit' means agricultural land occupied as a unit for the purposes of agriculture.

9. The appeal site comprises a steel framed barn-type building which is largely open on two sides. A smaller building of similar style lies adjacent. They lie within a rectangular field situated generally to the northeast of Sycamore Close. The proposal would involve the conversion of the larger building, and an area of land which surrounds it, for use as a single dwelling and associated amenity space.

10. According to the appellant, the appeal building was erected in the late 1990s. Cattle were kept on the appeal site for a period of 10 to 12 years, after which the herd was removed due to the distance of it from the previous owner's residence. A series of undated photographs have been submitted to me which appear to show cattle on the land at some time after the appeal building had been erected. After the herd was removed, the land and buildings were then rented out as a paddock. The appeal site is apparently part of an agricultural holding.

11. I observed on my site visit that the appeal site appeared underused and there was no clear agricultural use. The grass was largely overgrown, and the appeal building had been encroached by weeds and vegetation. However, the evidence before me, which includes various accounts from local residents and the Council, indicates that numerous horses have been present on the appeal site over a number of years, and have recently been removed.

12. A representative from the Council also visited the site in relation to a previous planning application. The notes accompanying the planning file, which the Council have provided to me as supporting evidence, indicate that the appeal site and land surrounding it was used for the keeping of horses in 2016. Additional photographic evidence submitted by several local residents appears to show a number of horses contained within the appeal building, with other photographic evidence clearly showing horses within the fields which form part of the appeal site. The accompanying written accounts suggest that horses have been on the site for at least 11 years.

13. It is not for me, as part of this appeal, to determine whether the presence of, and activities associated with, horses on the appeal site constitutes a material change of use. However, whilst the appellant accepts that horses have occupied the appeal site in the past, I have not been provided with sufficient evidence or information in order to properly explain the nature or circumstances of their presence, to assist in determining whether the appeal site was in agricultural use. However, the evidence of horse related uses may suggest it was not solely in agricultural use.

14. Therefore, based on my observations on site and the evidence before me, it is unclear the extent to which, if at all, the appeal building and land within its curtilage was used as an agricultural building on 20th March 2013. In the event that it was used as an agricultural building before this date, paragraph Q.1(a)(ii) effectively precludes any alternative use having taken place in between its last use as an agricultural building, and 20th March 2013.

15. Having regard to the foregoing, there is insufficient supporting evidence to adequately demonstrate that the appeal building comprises an agricultural building. Furthermore, there is insufficient evidence to demonstrate that the site was used solely for an agricultural use as part of an agricultural unit either on, or prior to, 20th March 2013, in order to comply with the requirements of paragraph Q.1(a) of the GPDO. The proposal would not be permitted development.

Building Operations

16. The PPG 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. Therefore, 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'.

17. The works necessary in order to facilitate the change of use would involve the installation of cladding and the formation of walls to the currently open south eastern and south western elevations. Doors and window openings would be created. The existing cladding associated with the north western and north eastern walls would be upgraded. None of the existing cladding would be

retained. The appellant does not contend with the Council's assertion that new walls would be created to form an inner skin to the proposed cladding.

18. The existing building is supported by a steel structure. I do not know whether the structure would be strong enough to take the loading associated with the external works necessary to create a dwelling as no structural report or similar has been provided. However, even if I was to assume that the steel structure was suitably robust and was to remain unmodified, the removal of the existing walls and roof cladding would leave a structure so skeletal that the totality of the works required to ensure the building was capable of habitation would amount to an almost complete rebuild. Consequently, I find that the appeal building is not capable of conversion to a residential use without comprehensive rebuilding works.

19. Notwithstanding my foregoing observations, I am satisfied that, despite the extensive nature of the works proposed in order to enclose the building, the completed building would not project beyond the envelope of the existing building, in compliance with paragraph Q.1(h) of the GPDO. Furthermore, whilst a new upper floor is proposed, the PPG[2] makes it clear that mezzanine or upper floor space or internal walls are not prohibited by Class Q.

20. Nevertheless, in order to benefit from the permitted development rights, the proposal must only involve building operations reasonably necessary to convert the building in accordance with paragraph Q.1(i). Based on the evidence before me and my own observations of the existing barn, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to be permitted development under Class Q.

Other Matters

21. I note that the Council's reason for refusal in respect of paragraph W(2) of the GPDO relates to a lack of information concerning sewage, water and electricity supply to the proposed dwelling. However, I note that the GPDO is not specific on the level of detail required, confining it to a 'written description of the proposed other operations'. According to the appellant, mains drainage already exists in the field and the connection of the barn to mains services would be easily achievable. A Telecommunications connection to the property is readily achievable also. No gas supply is required. I have no reason to dispute this and, therefore, I am satisfied that a sufficient level of detail has been provided in order to satisfy the requirements of paragraph W.

22. A number of concerns have been raised by local residents including, but not limited to, highways, flood risk and design. As I have concluded that the proposed change of use would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required as it would not alter the outcome of the appeal.

23. The principle of development is established through the grant of permission by the GPDO. Therefore, as I have no need to consider the 'prior approval' matters set out in Paragraph Q.2(1) of the GPDO, there has been no reason for me to assess the proposal against the development plan or any other relevant planning policies.

[2] Planning Practice Guidance - Paragraph: 105 Reference ID: 13-105-2018061

Conclusion

24. For the reasons given above I conclude that the proposal is not permitted development and that the appeal should be dismissed.

Matthew Woodward

INSPECTOR