
Appeal Decision

Site visit made on 21 November 2019

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 December 2019

Appeal Ref: APP/P1045/W/19/3237731

Grey Spindles Farm, Middleton, Matlock DE4 4NB

- 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 & Mrs Renshaw against the decision of Derbyshire Dales District Council.
 - The application Ref 19/00723/PDA, dated 14 June 2019, was refused by notice dated 21 August 2019.
 - The development proposed is change of use of agricultural building to dwelling.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO) for the change of use of an agricultural building to a dwelling at Grey Spindles Farm, Middleton, Matlock DE4 4NB in accordance with the details submitted pursuant to Article 3(1) and Schedule 2, Part 3, Paragraph Q.2 (1) of the GDPO through application Ref 19/00723/PDA, dated 14 June 2019. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of the GDPO and subject to the attached schedule of additional conditions.

Main Issue

2. The main issue in this appeal is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GDPO.

Reasons

3. Class Q of the GDPO 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 dwellinghouse. However, there are a number of circumstances where such development is not permitted, which are listed in paragraph Q.1. These circumstances include the site having not been used solely for an agricultural use, as part of an established agricultural unit, on 20 March 2013.
4. The Council considers that in this case, the building proposed to be converted to residential use was not solely in agricultural use and therefore does not benefit from permitted development rights under Class Q.

5. The building is likely to date from 2004/2005 and was described at the time as a hay and machinery store¹. This description fits with the situation that I saw at the time of my visit. The building contained several tractors and a large quantity of tools, materials, machinery and equipment including tyres and cables. The lean-to part of the building was being used for hay storage and housing cattle. In the area surrounding the building were various other vehicles, trailers, containers and other paraphernalia. The building was clearly being used for livestock and storing agricultural equipment.
6. The Council considers that the findings of the planning officer earlier in the year cast some doubt over the use of the building. On visiting the site during the assessment of the application, the planning officer noted the presence of agricultural equipment and machinery in and around the building, but also items which he considered to be non-agricultural in nature, such as a cement mixer, a skip and scaffolding. This prompted concerns that the building may not be solely in agricultural use. In his report, the planning officer commented that the building had the appearance of a workshop, rather than being solely related to agricultural use.
7. The appellant contends that the building was solely in agricultural use on 20 March 2013 and has been ever since, and that the tools and equipment contained in the building are used in connection with the agricultural operation. I agree that the running of a farm operation and maintaining tractors and other agricultural equipment is likely to require tools, machinery and equipment of the type that was being stored in the barn. The workshop appearance of the building does not necessarily imply any alternative, non-agricultural use.
8. I acknowledge that the building items seen by the planning officer could be used for other, non-agricultural purposes. However, it is not unreasonable to expect that building materials such as a skip, cement mixer and scaffolding may be used from time to time for the maintenance of farm buildings and I have no substantive evidence that the degree of storage of any items has led to a material change of use.
9. I consider that, on the balance of probabilities and in the absence of substantive evidence to the contrary, the building was in sole agricultural use on 20 March 2013. It therefore complies with limitation Q.1 of Schedule 2, Part 3, Class Q of the GDPO, and as such benefits from permitted development rights.
10. Having confirmed that the proposal would be permitted development, it is now necessary to consider matters required to be addressed under prior approval in Paragraph Q.2 (1) of the GPDO. During its assessment of the application the Council confirmed that the only matter for which prior approval would be required was the design or external appearance of the building. Based on the evidence before me, I have no reason to disagree with this assessment.
11. The main changes to the appearance of the building would result from the proposed rendering of the blockwork and the insertion of openings for windows and doors. The Council has not raised any particular objections to the proposed alterations to the building, and I agree that, subject to the conditions outlined below, the external appearance of the building would be acceptable.

¹ Agricultural prior notification reference 04/06/0506

Conditions

12. Paragraph Q.2(3) of the GPDO specifies that development under Class Q must be completed within a period of 3 years starting with the prior approval date.
13. Paragraph W(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. To ensure certainty and clarity, it is necessary to impose a condition setting out the approved plans.
14. The Council has suggested conditions requiring submission of details of the materials to be used, including windows and door frames. Given the very limited details provided on the submitted plans, I agree that these conditions are necessary and relevant to the matters requiring prior approval. Conditions requiring the submission and implementation of a scheme of hard and soft landscaping are also necessary to ensure that the external appearance of the building is acceptable.
15. I have made minor alterations to the Council's suggested conditions to make them more concise and where the level of detail required is excessive and unnecessary.

Conclusion

16. For the reasons set out above, I conclude that the proposal constitutes permitted development. The appeal is allowed and prior approval is granted.

R. Morgan

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the location plan and proposed plan which were submitted with the application.
- 2) Prior to being provided on the building, details of the following shall be submitted to and approved in writing by the Local Planning Authority:
 - a. Details of any replacement sheeting to the elevations and roof;
 - b. Details of the render colour to the blockwork;
 - c. Details of all windows, doors and door frames, to include their materials, colour and details of their position on the building;
 - d. Details of rainwater goods and other external pipework.

The conversion shall be carried out in accordance with the details approved in this condition and so retained thereafter.

- 3) The building shall not be occupied as a dwellinghouse until a scheme of hard and soft landscaping relating to the curtilage of the dwellinghouse hereby approved has been submitted to and approved in writing by the Local Planning Authority which shall include:
 - a. Details of new planting including the plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;
 - b. Means of enclosure/boundary treatment; and
 - c. Hard surfacing materials.
- 4) All soft landscaping shall be carried out in accordance with the approved details in the first planting and seeding season following the first occupation of the building or completion of the development, whichever is sooner. All shrubs, trees and hedges shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 5) All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of the development or in accordance with a programme to be agreed in writing by the Local Planning Authority, and so retained thereafter.