
Appeal Decision

Site visit made on 28 January 2020

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 17th February 2020

Appeal Ref: APP/F2605/W/19/3240798

Land at Hunts Corner, Banham, Norfolk NR16 2HL

- 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(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr L Keyes against the decision of Breckland District Council.
 - The application Ref 3PN/2019/0037/UC, dated 8 July 2019, was refused by notice dated 10 September 2019.
 - The development proposed is change of use only class Q(a) from agricultural use to residential use C3.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (Order) for the change of use only class Q(a) from agricultural use to residential use C3 at Land at Hunts Corner, Banham, Norfolk NR16 2HL in accordance with the terms of the application Ref 3PN/2019/0037/UC, dated 8 July 2019. The approval is subject to the condition that 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 Order.

Procedural Matter

2. While I note the description of development stated in the decision notice, from the wider evidence it is clear that the application was made with respect only to Class Q(a) of the Order. I have therefore used the description from the application form.

Main Issue

3. While I note the reasons for refusal, from the wider evidence, the main issue is whether or not the proposed development is permitted development under the Order and, if so, whether or not it would require prior approval in respect of the accompanying conditions in paragraph Q.2.

Reasons

4. The Order 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; or (b) development referred to in paragraph (a) together with building

- operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3(dwellinghouses) of that Schedule.
5. Paragraph Q.1 (a) of the Order states that development is not permitted by Class Q if— (a) the site was not used solely for an agricultural use as part of an established agricultural unit— (i) on 20th March 2013, or (ii) 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, or (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins.
 6. It is common ground between the main parties that the planning history of the site indicates that the site was historically used as a piggery and as such, there was a previous agricultural use. The evidence indicates that the use of the building as a piggery has long since ceased though there is no evidence confirming exactly when this particular use ended.
 7. From the evidence before me the site has since been used for the storage of miscellaneous items while the building itself does not appear to have been substantially changed since its last agricultural use. This is corroborated by my observations during the site visit. The storage use was not formally confirmed as being lawful and no planning permission to use the building for purposes other than agricultural use has been granted. While I note that further information with regard to the number of pigs kept on the site was not forthcoming, this in itself does not demonstrate that the previous agricultural use was not dormant or that an alternative use had commenced.
 8. Consequently, on the balance of probabilities, the observation of storage of miscellaneous items amounts to insufficient evidence that a material change of use from agriculture has occurred. I therefore consider that the site has been dormant since its last use for pig accommodation. As such I am satisfied, based on the evidence and my findings above, that the scheme would comply with Q.1 (a).
 9. The Council has not disputed that the proposal would accord with parts Q.1(b) to (g) and (j) to (m). From the evidence before me I see no reason to disagree. Class Q.1(h) states that development is not permitted if the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. Since the application was made on the basis of Class Q(a) only, further details of the external walls may be considered under a subsequent application.
 10. While the Council has referred me to case law relating to conversions, Class Q.1 (i) specifically refers to Class Q(b). However, the application was not made in this respect. I note the Council's view that the use of Q(a) is for situations where all the necessary conversion works are purely internal or indeed, where more extensive building operations, beyond the scope of Class Q(b), are intended. However, the Order does not make such a distinction.
 11. I note paragraph W of the Order which sets out the procedure for applications for prior approval including Class Q. I accept that paragraph W (2) (a) refers to applications which must be accompanied by a written description which must include any building or other operations. I also acknowledge the National Planning Policy Guidance (NPPG). However, Class Q includes the conditions set out in Class Q.2(2) which relates to development under Class Q(a) only and

requires that the developer apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in sub-paragraphs (1)(a) to (e) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application. Consequently, while I note paragraph W(3)(b), written description including any building or other operations would need to be provided with a subsequent application as part of the condition and on my reading, the Order allows for an assessment of the extent of building operations to be made at that point.

12. In any event, from my observations during the site visit, the structure of the building comprises blockwork and brickwork that largely enclose all sides of the building. Therefore, while I note that the building requires some maintenance, it differs substantially from that considered by the Inspector for the case at Ludlow¹ such that that case is not directly comparable with this appeal. I also note the comments of the Inspector for the case at Bowers Hill² and other appeal decisions submitted as part of the appeal. In any event, limited details are before me and each case must be determined on its individual merits. Therefore, these cases have not altered my overall decision.
13. I note the Council's concerns regarding transport and highways impact of the development, noise impacts of the development, whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order and the design or external appearance of the building. There has been very little evidence submitted as part of the application or appeal to sufficiently assess these matters. However, in any event, the condition set out in Class Q.2 (2) requires future consideration of these matters by the Council.
14. Consequently, the proposed development is permitted development under Schedule 2, Part 3, Class Q(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (Order) and, it would require prior approval in respect of the accompanying conditions in paragraph Q.2.

Other Matters

15. I note the evidence regarding the date that the planning application was validated and the relevant plans that were submitted. I acknowledge that paragraph W(2)(b) requires a plan indicating the site and showing the proposed development. The original location plan before me indicates a blue line around the building and a red line around the adjacent land with accompanying annotation. While this may not be in accordance with the Council's validation requirements, it would not strictly be in conflict with the requirements set out in paragraph W(2)(b) of the Order. In any event, this matter has not altered my conclusions on the main issue.
16. I acknowledge concerns including those regarding noise and disturbance, highway safety and density. However, many of these matters would be considered under a subsequent application for prior approval in respect of paragraph Q.2. Therefore, these matters have not altered my overall decision.

¹ Appeal Ref: APP/L3245/W/17/3182104

² Appeal Ref: APP/H1840/W/17/3173481

17. I note the evidence and local concerns relating to contamination. Since contamination risks is a matter that the Council will need to determine under a separate prior approval application, this has not altered my overall decision.

Conditions

18. Section W (13) of the Order states that local planning authorities may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. I have attached the standard condition set out in paragraph Q.2(3) relating to timescales, which requires development to be completed within 3 years of the decision date.

Conclusion

19. For the above reasons, based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

R Sabu

INSPECTOR