



Appeal Decision

Site visit made on 11 February 2020

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2020

Appeal Ref: APP/R3325/W/19/3238978

The Barn, Sutton Bridge Farm, Sutton Montis, Yeovil, Somerset

- 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 P Ruckert against the decision of South Somerset District Council.
 - The application Ref 19/00653/PAMB, dated 4 March 2019, was refused by notice dated 1 May 2019.
 - The development proposed is the change of use of an existing agricultural building to a dwellinghouse.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr P Ruckert against South Somerset District Council. This application is the subject of a separate Decision.

Procedural Matters

3. As the application form contains a fairly lengthy and detailed description of the proposed development I have used wording from the Council's decision notice and the appeal form, as this adequately reflects the proposal now at appeal.
4. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) grants planning permission for certain forms of development, including the change of use of an agricultural building to a dwellinghouse, together with building operations reasonably necessary to convert the building to that use, provided that certain conditions, limitations and restrictions are complied with. The Council has refused the application on the basis that it does not consider the proposal accords with the limitations and restrictions contained within Class Q of Part 3 of Schedule 2 of the GPDO, insofar as the previous use of the building in question is concerned. In its appeal statement it also raises concerns about the extent of the curtilage proposed.
5. It is also the case that development permitted under Class Q is subject to the condition that before commencement, an application must be made to determine whether prior approval is required in respect of the matters referred to in (a)-(f) of paragraph Q.2(1). Because of its concerns regarding curtilage, the Council raises further concerns regarding matters (a) 'transport and highways impacts of

the development'; and (e) '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 to the Use Classes Order'.

Main Issues

6. In light of the above points I consider the main issues to be:

- Whether it has been adequately demonstrated that the agricultural building was used solely for an agricultural use as part of an established agricultural unit on the relevant dates;
- Whether the proposed curtilage would exceed what is permissible under Class Q, and the implications for matters covered in paragraph Q.2(1) of the GPDO, relating to transport and highways impacts of the development, and location and siting of the building.

Reasons

7. The appeal relates to a single-storey agricultural building of some 62.2 square metres (sqm) gross external area, lying within an overall site which the appeal form states extends to about 1 hectare (ha). The site lies immediately to the north of Sutton Montis Road, about 0.5 kilometres outside the built form of the village of Queen Camel. At the time of my site visit, some sheep were housed within the building, whilst others were grazing on the wider site, amounting to around 18 sheep in total. There is also a smaller timber, pitched-roof storage building sited just to the south-east of the appeal building.

Agricultural use

8. The planning history for the site indicates that the building was constructed as 2 stables, with the Council stating that the building was subsequently identified as 'existing stables' on a further application. When it determined the current application the Council commented that the site does not appear to form part of any larger agricultural unit, and showed no sign of any significant livestock or other agricultural use, save for some half dozen sheep and lambs.
9. Because of this, and having regard to a representation from a member of the Queen Camel Parish Council (but submitted as an individual), contending that the site has been used almost exclusively for horses/equestrian purposes, the Council felt it could not be certain whether the building is (or has been), used for agricultural purposes for the conduct of a trade or business. The Council also had regard to the fact that the building is isolated, with no clear associated farmstead or business, and for all of these reasons it considered that the proposal is not compliant with Class Q, Part 3 and Schedule 2 of the GPDO, and accordingly it refused the application for prior approval.
10. Whether or not the Council could have sought further information on this point before making its decision, or responded to further information submitted by the appellant, as the appellant contends, is not a matter which I need to consider in detail here. The fact is that further information has now been submitted, as part of the appeal, in the form of Statutory Declarations from Mr Cameron Head, the former owner of the land and building in question, and Mr Patrick Ruckert, the current owner and appellant.

11. Mr Head declares that he purchased the property in 1990 and owned it until 2018, when he sold it to Mr Ruckert and his sister. He further declares that the buildings on the land were solely used for the storage of agricultural feed and equipment and the housing of 8 breeding goats and 45 chickens, with the property being used solely as an agricultural unit from 2007 until the date it was sold in 2018. He states that the only animals which have been on the property since 2007 have been agricultural livestock and chickens.
12. In turn, Mr Ruckert declares that he and his sister purchased the property from Mr Head on 7 June 2018. At that time it extended to about 0.591ha (1.46 acres), and then in November 2018 they purchased a further 0.404ha (1 acre). He states to be in the process of purchasing a further 0.526ha (1.3 acres) located on the northern site boundary, and that the land and buildings are used currently for the grazing and housing of livestock. Mr Ruckert ends his declaration by stating that he sells the lambs through local markets and is gradually building up the flock, which currently comprises 12 ewes.
13. In addition, the appellant's Statement of Case confirms that the agricultural unit has a County Parish Holding (CPH) number – a requirement of DEFRA¹ when a farmer is keeping livestock on an agricultural unit, but as no information has been submitted to demonstrate how long this CPH number has been held, I can only give this matter limited weight
14. Notwithstanding this latter point, the evidence before me is such that I consider it appropriate to give more weight to the information contained within the Statutory Declarations submitted by the appellant, than the unsubstantiated claims of an individual interested person, as detailed above. As such, I conclude that it has been adequately demonstrated that the agricultural building was used solely for an agricultural use as part of an established agricultural unit on the relevant dates, thereby satisfying this aspect of Class Q of the GPDO.

Curtilage, and matters covered in paragraph Q.2 (1) of the GPDO

15. The Planning Statement submitted with the application states that the proposed domestic curtilage for the dwelling is shown edged and hatched green on the application plan. This would wrap round the north-western and north-eastern elevations of the building and extend to some 60sqm. This is less than the gross external area of the agricultural building, which is some 62.2sqm. However, neither the application form nor this Planning Statement makes any reference to the red-edged area on the application plan, which as well as including the proposed access track, also encompasses a much larger area than the building to be converted and the area annotated as "Proposed Residential Curtilage".
16. On this matter, the Planning Practice Guidance² (PPG) makes it plain that an application site should be edged clearly with a red line on the location plan, and should include all land necessary to carry out the proposed development. It gives, as examples, land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings. It also states that a blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site.

¹ Department for Environment Food & Rural Affairs

² Paragraph: 023 Reference ID: 14-023-20140306

17. With these points in mind, and in the absence of any other information, it is not unreasonable to assume that the appellant is anticipating being able to use the whole of the red-edged area as domestic curtilage. Indeed this appears to be borne out by the amended application plan, submitted in response to comments from the highway authority, which shows 2 parking spaces located within this wider area. But if these parking spaces are taken into account as part of the residential curtilage, the size of this curtilage would exceed the land area occupied by the agricultural building, contrary to paragraph X of the GPDO. This would place the proposal outside the constraints and requirements of Class Q, and the proposal would not constitute permitted development.
18. Put simply, without express planning permission this land outside the “green curtilage” area could not be used for residential purposes. Whilst it would be open to the appellant to seek planning permission for the change of use of this wider area, that does not form part of the proposal before me, which I have determined on its merits, as submitted. In this regard I also note that part of the proposed manoeuvring area shown on the amended plan appears to lie outside the red-edged area, and therefore clearly could not be approved as part of this application, even if it was being specifically sought as part of this proposal.
19. Conversely, as noted by the Council, without such additional areas the proposal would not provide adequate manoeuvring and parking space to serve the dwelling. I share the Council’s view that this could lead to the displacement of vehicles onto the highway, and vehicles entering and/or exiting the site not in a forward gear. These actions could well lead to inconvenience to users of the adjacent highway, and a consequent risk to highway safety. As such, I consider that the proposal would result in an impractical and undesirable development.
20. I note the appellant’s comments that the Council raised no issues regarding the parking arrangements or curtilage during the application process, and that these matters should be disregarded now, especially as there is no requirement to include provision for access or parking within the curtilage. However, these are relevant matters which have been raised by the Council and which are now before me as part of this appeal. I cannot simply ignore them, for reasons already given, above. Nor can I ignore the ambiguity caused by the red-edged area being appreciably larger than the agricultural building and proposed residential curtilage as shown on the application plan.
21. In summary, if the parking shown is to be included within the proposed curtilage, then the proposal cannot be considered to be permitted development; and if the parking is not to be included, the proposal would be at odds with matters (a) and (e) of GPDO paragraph Q.2(1), as detailed above. In either case, as it currently stands I conclude that the development is not acceptable.

Other matters

22. The Agricultural Buildings Report submitted by the appellant states that the agricultural building is single-storey, of concrete block construction, with a rendered, painted exterior and with an apex roof of profiled roof sheeting on timber purlins and rafters. It sits on concrete raft foundations and is currently divided into 4 parts, with solid concrete floors, some covered with straw, and each accessed by its own external timber door. The report states that overall the building is in generally good order and is structurally sound and suitable for conversion in accordance with the submitted drawings.

23. The appellant indicates that all of the external concrete block walls and all of the roof structure would be retained. An inner insulation skin would be erected against the existing walls, and the roof would be clad with coloured tile sheet roof covering, to replace the existing corrugated roof covering. Windows and doors would be created in the existing elevations, and some external walls would be created to enclose the existing covered veranda area.
24. I see no good reason to disagree with these assessments, and on the basis of the evidence before me I, too, consider the building to be structurally sound and capable of being converted without the need for new structural elements. As such, the proposed building operations necessary to reasonably convert the building would accord with the requirements of Class Q of the GPDO.
25. In addition, I saw at my visit that the site access joins the public highway at an appreciable angle, such that drivers would have to look significantly over their shoulder to check visibility to the south-east. However, having regard to the lightly trafficked nature of the road, I consider, on balance, that visibility in both directions would be satisfactory.
26. Finally, I have noted the support offered for this proposal from Queen Camel Parish Council, but as no comments on the merits of the case are offered, I give this support little weight.

Conclusion

27. Notwithstanding my favourable findings regarding the current and past agricultural use of the site and building, and on some of the other matters discussed above, these do not outweigh my adverse findings under the second main issue, relating to matters of curtilage and the points to be addressed under paragraph Q.2(1) of the GPDO.
28. For the reasons set out above, and having had regard to all other matters raised, I conclude that this appeal should be dismissed.

David Wildsmith

INSPECTOR