



Appeal Decision

Site visit made on 10 March 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2020

Appeal Ref: APP/A3010/W/19/3243403

**Former Agricultural Buildings, Drive End, Welham, Nottinghamshire
DN22 0SF**

- 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 Mrs J Lamon against the decision of Bassetlaw District Council.
 - The application Ref 19/01026/PDN, dated 24 July 2019, was refused by notice dated 24 September 2019.
 - The development proposed is change of use of 2No. former agricultural buildings to Class C3 (2No. dwellinghouses) including creation of domestic curtilages and vehicle parking areas.
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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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for change of use of 2No. former agricultural buildings to Class C3 (2No. dwellinghouses) including creation of domestic curtilages and vehicle parking areas at Former Agricultural Buildings, Drive End, Welham, Nottinghamshire DN22 0SF in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2 (1) of the GPDO through application Ref 19/01026/PDN, dated 24 July 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 GPDO and subject to the following additional conditions:
 - (1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan Proposed Drawing No 1842 (P) 05, Ground Floor Proposed Drawing No 1842 (P) 06, Elevations Proposed – Barn 1 Drawing No 1842 (P) 07 and Elevations Proposed – Barn 2 Drawing No 1842 (P) 08.
 - (2) Before development to facilitate the change of use hereby approved commences, precise details of the materials to be used to the external elevations of the building shall be submitted to and approved in writing by the Local Planning Authority. Once approved in writing, the development shall only be undertaken in full accordance with the approved materials.
 - (3) If, during development, contamination not previously identified is suspected to be present at the site, then all works must stop and the

Local Planning Authority notified immediately. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with current good practice and legislation with details submitted to and approved in writing by the Local Planning Authority. Any necessary remediation shall thereafter be implemented. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority.

Procedural Matter

2. The application form does not include a postcode for the site address. I have taken this from the appeal form.

Background and Main Issue

3. The main issues are:
 - Whether the appellant was notified within 56 days from the submission of the application and if not,
 - Whether the proposal satisfies the requirements of the GPDO with regard to being permitted development for a change of use from an agricultural building to a dwelling house (Use Class C3), having particular regard to the requirements under Class Q.1 (i).

Reasons

4. Schedule 2, Part 3, paragraph W of the GPDO sets out the procedures which are required to be followed for prior approval applications such as the appeal case. It includes that the development must not begin before amongst other things (11)(c) the expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether approval is given or refused.
5. The application forms are dated 24 July 2019, however, the decision notice confirms the received date as 30 July 2019. I have no evidence before me to dispute this. The Council made their decision on 24 September 2019, and therefore on the 56th day starting from the day following receipt of the application. Paragraph W(11)(c) states that development must not begin before the expiry of 56 days following the date on which the application was received by the local planning authority without the authority 'notifying' the applicant of its decision. Section 7 of the Interpretation Act 1978 states that notification must be posted in sufficient time for the "ordinary course of post". The evidence before me indicates that the appellant was only informed of the Council's decision by email on 26 September 2019.
6. As the date that the applicant was notified of the Council's decision was after the 56-day notification period, development could proceed. However, this is dependent upon the change of use being permitted development within the terms of Schedule 2, Part 3, Class Q of the GPDO. I consider this under the second main issue.

Whether the proposal is permitted development

7. Schedule 2, Part 3, Class Q (a) and (b) of the GPDO 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 use falling within Class C3 of the Use Classes Order (UCO); and building operations reasonably necessary to convert the building to a use falling within Class C3 of the UCO.

8. Class Q.1 states amongst other things 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.
9. The appeal site includes two detached buildings closely positioned alongside each other. The buildings are situated close to the existing bungalow known as Drive End and next to a grass field. They are accessed via the private drive and hard surfaced forecourt serving Drive End.
10. The Council contends that it has not been clearly demonstrated that the buildings were last used for agricultural purposes and therefore the proposal should not benefit from the permitted development rights under Class Q. However, the appellant advises that whilst the buildings were not in use for agriculture on 20th March 2013, they were last in use for agricultural purposes for housing cattle, storing a tractor and farm equipment and for the hanging of carcasses and they have not since been put to any alternative use.
11. Even though the remnants of any previous agricultural use were minimal at the time of my site visit, I noted the orientation of the longest elevations of the barns with doors and openings facing towards the field. 'Barn 1' incorporates a range of materials including timber doors as well as breeze block walls and corrugated roofing to a substantial part of the building. Part of the barn includes a section of raised concrete floor with breezeblock partition to a water feeder. These elements display distinctly agricultural characteristics. There is a separate area with proportions capable of storing a tractor. Whilst served by timber double doors fronting the hard-surfaced forecourt serving Drive End, this part of the barn has connecting internal windows which indicate the adjoining parts of the structure were in common use.
12. 'Barn 2' is undoubtedly of an agricultural character owing to its breeze block and timber panel elevations, corrugated roof material and partly open sided elevation facing the field. Hay was being stored in this building at the time of my visit.
13. The Council has not provided any substantive evidence to persuade me that these buildings were not previously in agricultural use as part of an agricultural unit, nor that they have been used for domestic purposes since any agricultural use ceased. My attention has been drawn to a previous householder planning application for Drive End which included the buildings subject to this appeal within the application site. However, the application to the Council in that instance related solely to operational development for an extension to the dwelling rather than clarifying the use of land. I am not persuaded therefore that this could be relied upon for identifying the lawful use of the buildings nor that they historically fell within the extent of domestic curtilage serving Drive End.

14. No further areas of dispute have been raised by the parties in respect of the remaining qualifying criteria under Class Q.1 and from what I have seen and the evidence before me I find no reason to reach an alternative conclusion.
15. To conclude, I am satisfied the requirements of the GPDO, having particular regard to the requirements under Class Q.1 are met.

Other Matters

16. No evidence has been presented that the proposed development would result in any significant transport and highway, noise, contamination or flood risk issues nor that the location or siting of the building makes it otherwise impractical or undesirable for the building to change use. The proposal would therefore be acceptable in terms of matters (a), (b), (c), (d) and (e) of Paragraph Q.2(1) of Part 3 of Schedule 2 of the GPDO. The proposed dwelling would utilise the shape and form of the existing buildings and the plans indicate that suitable materials would be utilised to provide a dwelling of acceptable design and external appearance. I am satisfied it does not raise issues that require further assessment and therefore the proposal also meets matter (f).

Conditions

17. Section W (13) of Part 3 of Schedule 2 of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
18. The Council has not provided any suggested conditions. I agree with the appellant that it would be reasonable and necessary to attach a condition confirming the approved drawings in the interests of certainty as well as a condition to deal with any contamination found on the site being conscious of the former use of the buildings.
19. The Council's Environmental Health comments suggested that a condition controlling construction hours. However, being mindful of the extent of works required and the likely timescales for such work to be undertaken, I consider it unlikely construction works would give rise to levels of noise and disturbance likely to result in material harm to the living conditions of neighbouring occupiers.
20. The submitted drawings include some limited details on materials and in respect of walls only confirm timber cladding to existing external block work walls would be utilised. However, there are some instances where there is no blockwork wall to clad, for example where the timber doors on 'Barn 1' would be replaced by a wall. I consider it would be reasonable to attach a pre-commencement condition requiring the details of wall treatment and cladding to be agreed in writing with the Council to ensure the materials utilised respond positively to the character and appearance of the area.

Conclusion

21. For the reasons given above, I conclude that the appeal should be allowed and prior approval granted.

M Russell

INSPECTOR