
Appeal Decision

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2020

Appeal Ref: APP/Q1825/W/19/3239696

Barn on land adjacent to Rookery Cottage, Droitwich Road, Feckenham B96 6RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 Neil Hodgkins against the decision of Redditch Borough Council.
 - The application Ref 19/00896/CUPRIO, dated 21 June 2019, was refused by notice dated 13 August 2019.
 - The development proposed is 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 (dwellinghouse).
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Decision

1. Since what is proposed is not permitted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) no further action will be taken in connection with this appeal.

Procedural matters

2. The site boundary shows the proposed new dwelling would be linked to the public highway by means of an existing access. When this access was granted planning permission it was subject to a condition that said

The proposed access shall only be used by agricultural vehicles in connection with the land to the south and east of Rookery Cottage (shown on Drawing No. 7830-A-101) and for no other purpose, including as a residential access to Rookery Cottage.

The appellant accepts this condition is restrictive and would need to be removed or varied to facilitate the new residential use.

3. Under Article 3(4) of the GPDO, to benefit from any planning permission granted by Article 3 of that Order the development must not be contrary to any condition on an existing planning permission. To my mind what is before me is contrary to the condition imposed on the planning permission for the existing access, even if that condition was originally intended to allow access to this barn. This is because it would result in the access being used for a purpose other than by agricultural vehicles in connection with the land to the south and east of Rookery Cottage.

4. As the transport and highways impacts of the use are part of the determination (albeit not contested in this case), and as it is accepted the condition quoted above would need to be addressed, then the access is relevant when considering this Class Q appeal. I do not doubt that the development could be accessed by other means, but those alternative accesses do not form part of the proposal before me. It may also be possible to obtain planning permission for use of the access in non-compliance with the condition, but no such permission has yet been granted, and so the works remain contrary to Article 3(4).
5. In coming to this view, I have taken account of the appeal decision concerning the barn off Tanners Green Lane¹. However, I see nothing in that case that leads me to a different finding in this instance, as the works there did not seem to be in conflict with an existing condition and so were not contrary to Article 3(4).
6. Accordingly, what is proposed is not development permitted by the GPDO. It is development for which express planning permission is required, and that could only be granted on application made to the local planning authority in the first instance. There is therefore no need for me to consider the further points of contention between the parties.

JP Sargent

INSPECTOR

¹ APP/P1805/W/19/3220860 dated 30 May 2019