
Appeal Decision

Site visit made on 1 June 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 03 June 2020

Appeal Ref: APP/U1105/W/19/3243386

Building at Pinneywood, Lodge Lane, Axminster EX13 5RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs S Herrod against the decision of East Devon District Council.
 - The application Ref 19/2011/PDQ, dated 30 August 2019, was refused by notice dated 22 October 2019.
 - The development proposed is prior approval for proposed change of use of agricultural building to dwelling (use class C3) and associated operational development.
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Decision

1. The appeal is dismissed.

Main Issue

2. Class Q (a) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits the 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. Class Q (b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above.
3. The main issue in this appeal is whether the proposal would accord with Class Q (b), having particular regard to the limitations set out in Q.1(a) and Q.1(i).

Reasons

4. The appeal concerns a barn at Pinneywood. The barn is a steel framework construction with walls composed of concrete block work to the lower parts on three sides, and corrugated metal sheeting covering the structure. The barn forms part of the larger building, with the north eastern section of the building being constructed on timber frames. The roof in this section of the building is partially collapsed.
5. Class Q permits development consisting of 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 and building operations reasonably necessary to convert the building. Paragraph Q.1.(a) states that development is not permitted by Class Q if the site was not solely for an agricultural use as part of an established agricultural

unit on 20th March 2013 or 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.

6. The Council maintain that the Appellant has provided insufficient information to enable the authority to establish whether the building has been used for an agricultural trade or business and therefore represents an "agricultural building" as defined by Class X of the GPDO. This states that "agricultural building" means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business.
7. The Appellant claims that the building was an agricultural building on 20 March 2013 as indicated on the planning application. Furthermore, the Appellant has provided a signed letter as part of the appeal which confirms that the land and buildings have been in continuing use by the Appellant's family since purchase in 1964 and that the building has been used during that time for the rearing of cattle and the storage of agricultural machinery as part of the Appellant's family livelihood.
8. Whilst I acknowledge the submissions of the Council with regards to the information provided by the Appellant within their original application, and that paragraph W.(3) of Part 3 Schedule 2 of the GPDO makes it clear that an application can be refused where the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions which are applicable to the development, in this instance and given the additional evidence supplied by the Appellant, on the balance of probabilities the building has been used as an agricultural building in connection with an agricultural trade or business during the required period. Accordingly, the requirements of paragraph Q.1.(a) in relation to agricultural use are satisfied.
9. The GPDO states at paragraph Q.1(i) that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or external walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
10. The Planning Practice Guidance (the PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted. However, the PPG clarifies that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. It is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right.
11. In this regard, the Council do not dispute that the proposed works in relation to the conversion of the building to a dwelling including, amongst other things, the installation of new internal walls, the installation of panels to create openings and the installation of services, would not go beyond what is reasonable and necessary and therefore would fall within the permitted

development right in accordance with paragraph Q.1(i) (i). However, the Council maintains that the proposed demolition of the north eastern section of the building would not be reasonably necessary to carry out building operations permitted under Q.1(i) (i) and it is the extent of demolition required which is considered to go significantly beyond that permitted.

12. Paragraph Q.1(i)(ii) refers to partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i). The appeal proposal seeks to demolish the north eastern section of the building and which would, in my view, result in a significant reduction in the overall footprint of the building.
13. Whilst I acknowledge the Appellant's submissions that the proposed demolition works would result in a dwelling that would have more architectural merit than the existing utilitarian structure, relatively little evidence has been presented to show that the proposed demolition of the substantial section of the existing building would be reasonably necessary to facilitate the installation or replacement of windows, doors, roofs, exterior walls, or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse as specified in paragraph Q.1(i)(i). Based on the information presented, I am therefore unable to determine that the demolition of a substantial section of the building is reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
14. In summary of the above, whilst I have concluded that on the balance of probabilities the site was in agricultural use and part of an established agricultural unit at the required dates, in order to benefit from the permitted development rights, the proposal must only involve building operations reasonably necessary to convert the building in accordance with paragraph Q.1(i). Based on the evidence before me and my own observations of the existing barn, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to be permitted development under Class Q.

Conclusion

15. For the reasons given above I conclude that the proposal is not permitted development and that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR