
Appeal Decision

Site visit made on 28 July 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2020

Appeal Ref: APP/Y3940/W/20/3251475

The Barn, Purkini Farm, Stoke Common Lane, Purton Stoke, Swindon SN5 4LL

- 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 G Giles against the decision of Wiltshire Council.
 - The application Ref 19/07914/PNCOU, dated 1 July 2019, was refused by notice dated 26 October 2019.
 - The development proposed is change of use of an agricultural building to a single dwellinghouse (Use Class C3) and for associated operational development.
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Decision

1. The appeal is allowed and approval granted under the provisions of Article 3(1) Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015) for change of use of an agricultural building to a single dwellinghouse (Use Class C3) and for associated operational development at The Barn, Purkini Farm, Stoke Common Lane, Purton Stoke, Swindon SN5 4LL in accordance with the details submitted in application ref 19/07914/PNCOU, dated 1 July 2019.
2. 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 2015 and subject to the following additional condition:
 - 1) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously

identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.

Procedural Matter

3. No specific description of development is given on the application form. As such, I have used the one from the decision notice and appeal form which accurately reflects the proposed development.

Application for costs

4. An application for costs was made by Mr G Giles against Wiltshire Council. This application is the subject of a separate Decision.

Background and Main Issue

5. Class Q of the GPDO permits the change of use of an agricultural building to a dwelling as well as building operations reasonably necessary to convert it. Paragraph Q.1(a) of the GPDO states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013 (the relevant date) 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. Whether or not the appeal building was/is an 'agricultural building' is a matter of fact and degree based on the particular merits of the case and the evidence presented.
7. The Council are satisfied that the proposal meets the criteria contained in Class Q save for Paragraph Q.1(a) and whether the building is currently in agricultural use. I have considered the appeal on this basis.
8. Therefore, the main issue in this case is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of GPDO Order 2015.

Reasons

9. At the time of my visit, the appeal site was largely vacant with the exception of some hay. There were storage containers outside the building and no livestock or other animals in the adjacent land shown to be within the appellant's control. However, my visit is only a snapshot in time and the findings of my own internal inspection are not determinative evidence in establishing the use of the building on or before the relevant date or at the present time.
10. There is no certificate of lawfulness establishing the agricultural use of the site. The Council refer to an equestrian use of the appeal building and surrounding land with accommodation for horses and ponies at the time of their site visits. Notwithstanding this, these were several years after the relevant date. Consequently, they do not provide any evidence of the use of the site on the relevant date or demonstrate that an agricultural use would have been unlawful at that time.

11. The appellant has provided stock movement details, invoices and receipts relating to various services and goods from around the relevant date along with aerial pictures and photographs said to indicate agricultural use of the site. Many of these details are not explicit in relating to the site and refer to what is said to be the appellant's address, not the site address. Nevertheless, I appreciate that an address used for correspondence is unlikely to specify a particular building.
12. Furthermore, there is no compelling evidence to dispute the appellant's statutory declaration indicating that they took over management of Purkni Farm in 2009 and that the building was used for sheltering livestock, dry storage of hay and fodder, storage of agricultural machinery and consumables at the time of the relevant date. These details suggest to me that agricultural activities took place at the appeal site.
13. Comments from an interested party state that to their knowledge the land was not in use for agricultural purposes on the relevant date or since. The presence of a donkey is referred to. To my mind this is not conclusive with regard to the use of the land as a whole. Moreover, the comments do not make explicit reference to the use of the building or the appeal site itself.
14. Clearly the case involves matters of judgement. In this instance the weight of the evidence that is before me points to, on the balance of probabilities, finding that the appeal building, was in use solely for agriculture in connection with an agricultural unit on the relevant date.
15. Accounts of the Council's site visits given in their officer reports¹ following the relevant date refer to what they consider to be equestrian activities and animals being present at the appeal building and wider land. I have no reason to doubt the observations of the Council officers when they visited the site. Nonetheless, these would only represent a snapshot in time. Even with horses present this does not mean the building/land has moved away from an agricultural use.
16. Moreover, it is not clear from these descriptions whether potentially non-agricultural activities were on land within the appeal site or the parts of the building subject to this appeal. In addition, these descriptions include reference to storage of hay and sheep on the land. These could fall within the description of agriculture given in Section 336 of the Town and Country Planning Act 1990.
17. Photographs provided by the appellant said to be of cattle using the building after the relevant date have not been disputed. Furthermore, I have seen nothing to suggest any other uses have been approved or would be more than de minimus. In addition, there is little to demonstrate, if there were some form of equestrian use, that a mixed use has now become lawful and is immune from enforcement action. Therefore, on the balance of probability, the appeal building is an agricultural building.
18. Consequently, on the balance of the evidence before me in this appeal, the building would appear to be agricultural for the purposes of Class Q and would not conflict with the periods referenced in Paragraph Q.1 (a).

¹ 18/11470/PNCOU and 19/04443/CLE

Other Matters

19. I note third party comments and those of the Highways Engineer regarding vehicle and pedestrian access to the site along with the separation of it from services and facilities. However, the Council considered these would not prevent approval of the scheme. The existing use of the site could generate its own level of traffic and the locational aspect of the site in terms of accessibility is not of direct relevance to this proposal.
20. Issues relating to the maintenance of the private road does not alter my findings with regard to the main issue.

Conditions

21. Paragraph W of Part 3 of Schedule 2 of the GPDO 2015 allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
22. The GPDO 2015 generally provides that, in respect of relevant Parts and Classes, development must be carried out in accordance with the details submitted. Therefore, a condition requiring that the development is carried out in accordance with the submitted plans is not necessary.
23. A condition is imposed requiring investigations into potential contamination to ensure that future residents would be protected against any such risks. These details are required prior to the commencement of the development as they may relate to the initial works.

Conclusion

24. I conclude that the appeal should be allowed subject to the above conditions.

Stuart Willis

INSPECTOR