
Appeal Decision

Site visit made on 17 August 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2020

Appeal Ref: APP/Y3940/W/20/3250212

Former Pig Breeding and Rearing Building, Stobberts Agricultural Buildings, Stobberts Road, Market Lavington, Wiltshire SN10 4AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a 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 S Wordley against the decision of Wiltshire Council.
 - The application Ref 19/08171/PNCOU, dated 3 August 2019, was refused by notice dated 3 October 2019.
 - The development proposed is for the conversion of an agricultural building to create one dwellinghouse.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (1) whether it has been adequately demonstrated that the application building was used solely for agriculture, as part of an established agricultural unit, on or before the 20th March 2013; (2) whether the proposed building operations would be considered reasonable to convert the agricultural building to a dwelling; (3) whether a dwelling in this location would be compatible with adjacent land and building uses; and (4) whether the proposal would result in highway safety issues.

Procedural Matters

3. The Council has confirmed that the information submitted with the appeal indicates that the potential for contamination of the site impacting future potential occupiers of the development proposed as being low. The Council therefore do not wish to pursue their fourth reason for refusal.

Reasons

Previous Agricultural Use

4. Class Q 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 (dwellinghouses) of the Schedule to the Use Classes Order, together with any building operations reasonably necessary to convert the building.

5. Schedule 2, Part 3, paragraph X of the GPDO sets out that an 'established agricultural unit' for the purpose of Class Q means agricultural land occupied as a unit for the purposes of agriculture, on or before 20 March 2013 or for 10 years before the date the development begins. Furthermore, 'agricultural building' means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business, and 'agricultural use' refers to such uses.
6. Compliance with Class Q, amongst other criteria, includes paragraph Q.1 (a) which requires that the building and its curtilage was solely used for an agricultural use as part of an established agricultural unit on 20 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.
7. It is apparent from the evidence provided that this building was not in use for agricultural purposes on the 20 March 2013 and is not in any such use currently. The main question is therefore whether the building was last used for agriculture before 2013. In this regard, I note the letter from the previous owner that this building was used for the rearing of pigs until 1999 when he finished his association with this land and their buildings. However, there is approximately 14 years between 1999 and 2013.
8. In this substantial period of time there is some evidence put forward of alternative uses of these buildings, particularly the use of one of the buildings in this complex to produce windows. However, the appellant states that this was not a 'lawful' use and also that it was not within the appeal building. Indeed, the appeal building still had features within it, such as the troughs on the ground, which indicated that the last use was for the keeping of pigs rather than for parking or as a workshop, for example.
9. The Council argues that the evidence indicates that there is little to suggest the appellant wishes to return the site to agricultural use in the future, especially considering some of the planning history and the likely lack of activity at the building since about 1999. I also note the Council considers the agricultural use as abandoned, but from the evidence before me I am not persuaded that this is the case. Overall, there is no clear and substantive evidence that prior to 2013 the building was used for any activity or use other than agriculture. Therefore, taking everything into account, the information before me is sufficient to demonstrate that on the balance of probability the building was solely used for agriculture for the purposes of a trade or business as part of an established agricultural unit when last in use prior to March 2013. Accordingly, the proposal meets with the requirements set out within Class Q of the GPDO in this regard.

Structure

10. In order to benefit from the permitted development right under Part 3, Class Q of the GPDO, the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building.
11. The Planning Practice Guidance (PPG) explains that it is not the intention of Class Q to include the construction of new structural elements for the building. Therefore, it is only where an existing building is structurally strong enough to take the loading which comes with the external works to provide for residential

use that the building could be considered to have the permitted development right.

12. As I observed on site, the current building is in a poor state of repair, maybe due to it not having been in active use for circa 20 years. To address the issue of the structural integrity of the building in relation to the works needed to convert it to a dwelling the appellant has submitted a report by R D L Brown of T Ward Whitfield & Son (Report No 1685). The report covered the foundations that were viewed with trial holes and stated that they were "normal adopted width for concrete foundations beneath domestic dwellings". Also, the report states that the walls were generally sound and that the vertical crack on the front gable wall could be "easily made good". The lintels are sound, but the asbestos roofing and the rusted metal roof frame will need to be replaced.
13. In terms of the work required the report stated that new concrete floors would be required along with the new roof. The amount of works needed would be substantial, though it is apparent that the development could be undertaken without further substantial structural works being necessary also. To my mind, the agricultural building is currently capable of functioning as a dwelling without significant building works which would go beyond that which I would consider reasonably necessary to convert this building to residential.
14. In order to benefit from the permitted developments rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must only involve building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b). Based on the evidence before me and my own observations of the barn, it has been sufficiently demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to accord with the requirements under Class Q.

Dwelling compatibility with surrounding uses

15. Within the Council's third reason for refusal they state that as the proposed dwelling is surrounded by other agricultural or commercial buildings then this would make the siting of the new dwelling incompatible with the surrounding land and building uses. One of the conditions under Class Q (Q2 1-e) is 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.
16. Currently there is no apparent activity, commercial or agricultural, taking place in the surrounding buildings. Furthermore, there is no clear suggestion that they would be used for uses that would be incompatible with the dwelling use proposed, to the extent that it would make living in the dwelling undesirable. The site is adjacent to residential areas of the village with an access onto the highway. As such, it is my view that there is no substantive evidence that the surrounding uses of land and buildings would mean that a dwelling in this location would be impractical or undesirable for future occupants, or that sharing the access would be particularly problematic.

Highways Matters

17. For permitted development under Class Q, paragraph Q.2 (1) of the General Permitted Development Order it requires the prior approval of certain matters.

This includes a consideration of the transport and highways impacts of the development.

18. The appeal building is adjacent to the corner of Stobberts Road and The Clays. The Clays is an unadopted road which runs behind a number of properties and links with White Street to the west. The Clays is narrow and is little more than an unsurfaced track. In my view, to access the site it is more likely that vehicles would use Stobberts Road which links with the B3098 High Street, which is one of the main roads through the village. This is because Stobberts Road has a tarmacked/concrete surface and is relatively short in length before linking with the High Street.
19. Whilst narrow, Stobberts Road does have wider sections which could possibly allow some vehicles to pass. There also appears to be sufficient space for pedestrians generally. However, it is narrow at the junction with High Street, where two cars could not realistically pass. This may result in some reversing out of Stobberts Road if a car turns into this street not realising there is a vehicle coming the other way. With limited visibility at the junction this would not be a particularly safe manoeuvre. Furthermore, the visibility to the right towards the near-side traffic when exiting Stobberts Road is very poor, as a result of a high brick wall on the edge of a residential property obscuring views. In my opinion, this junction between Stobberts Road and the High Street is substandard to a degree that further increased traffic on this road as a consequence of the proposed new residential unit should be avoided. There may be no evidence of accidents at this junction, but this does not necessarily mean that it is safe to a suitable standard. Furthermore, a good level of visibility is required to turn in either direction at this junction.
20. There may be an alternative route with use of The Clays, but there is no way of guaranteeing that future occupants of the proposed dwelling would not drive through to the High Street (B3098) via Stobberts Road on a frequent basis.
21. My attention has been drawn to other examples of development permitted where there could be additional traffic as a result down to the junction between Stobberts Road and the B3098 High Street. However, I do not have full details of all of these cases. Furthermore, I have come to my decision based on the evidence before me for this particular case and my observations on site.
22. It may be possible that the agricultural use of the existing buildings be started up again if the new dwelling is not developed. However, the site has remained mostly dormant for about 20 years with little evidence to indicate that this is a likely scenario. Furthermore, there is no substantive evidence before me to indicate that as an agricultural building the traffic along Stobberts Road to the High Street would be as frequent as would be generated by the dwelling proposed. I am therefore not persuaded that the traffic generated by the potential fallback position for this former pig rearing building, if indeed one realistically exists, would be more than the proposed dwelling.
23. I therefore conclude that the route from the site from the proposed dwelling through to the main road through the village (High Street (B3098)) is substandard from a highway safety perspective. The additional dwelling as proposed would result in significant highway safety impacts through additional traffic generated on this route, even though the number of additional trips would not likely be substantial. The proposal would therefore have a significant

adverse highway impact and would not satisfy the provisions of paragraph Q.2(1)(a) of Part 3 of Schedule 2 of the General Permitted Development Order.

24. The appellant has stated that the consultee response regarding highway safety came late to the Planning Officer and they had little time to respond. However, whilst I can understand the appellant's frustrations with this, they have had sufficient time now to respond in full with the appeal, which I have taken fully into consideration.

Conclusion

25. For the reason of highway safety, the appeal should be dismissed.

S. Rennie

INSPECTOR