



Appeal Decision

Site visit made on 2 December 2020

by M Seaton DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 January 2021

Appeal Ref: APP/Q4625/W/20/3259127

Hollybush Farm, Holly Lane, Balsall Common, Solihull, CV7 7EB

- 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 Paul Farmer against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2020/01418/PNCUDW, dated 30 June 2020, was refused by notice dated 20 August 2020.
 - The development proposed is a change of use of Barn A into a modest dwelling.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The National Planning Practice Guidance advises the starting premise for Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) is that the permitted development right grants planning permission, subject to the prior approval requirements.
3. The provisions of the GPDO require the local planning authorities to assess the proposed development in respect of transport, highways, and noise impacts of the development, and also the flooding and contamination risks on the site, and 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). It is also necessary to assess whether prior approval would be required regarding the design or external appearance of the building.
4. In respect of whether the agricultural building is capable of conversion to a dwelling, this must be assessed in accordance with the extent of works set out as permissible as defined in paragraph Q.1 of the GPDO.
5. Whilst I note that the Council has concluded that the proposed conversion of the building itself would not fall foul of any of the criteria set out within paragraph Q.1 of Schedule 2, Part 3, Class Q of the GPDO, reference has been made to whether the provision of the physical works to provide the means of access to the building would fall to be considered under paragraph Q.1(i). However, this paragraph seeks to define the building operations reasonably necessary to convert the building under Class Q(b) to allow it to function as a

dwellinghouse, rather than concerning itself with other matters such as the creation of an access. I do not therefore agree with the Council's interpretation in this regard.

6. Turning to the conditions for a determination of prior approval set out at paragraph Q.2 of Schedule 2, Part 3, Class Q of the GPDO, there is no dispute between the Council and the appellant that transport and highway impacts of the development, impacts of noise, flooding and contamination risks on the site, and the design and external appearance of the resultant building, would all be acceptable.
7. However, the Council has concluded that the development would conflict with the condition set out at paragraph Q.2(1)(e) which requires a determination as to 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.
8. As a consequence, in this instance the main issue is whether prior approval is required in relation to the condition regarding the location or siting of the building, as set out in paragraph Q.2 of Schedule 2, Part 3, Class Q of the GPDO.

Reasons

9. The appeal relates to a disused single-storey agricultural building positioned within a field set to the north of the existing dwelling and its curtilage at Hollybush Farm. The building possesses a floor area of 44m² with the submitted plans indicating the provision of a residential curtilage of the same area.
10. The Council contends that as a consequence of the location of the building within the field without an existing means of pedestrian or vehicular access, the building would occupy an impractical location for the purposes of an assessment against the GPDO. However, the appellant has sought to provide a path as part of the defined details of a proposed curtilage in association with the dwelling, with the incorporation of a footpath link between the building and the edge of the existing residential curtilage of Hollybush Farm across the open field.
11. I have had regard for the purposes of Class Q of the GPDO, to the term 'curtilage' as defined in Schedule 2, Part 3, paragraph X as meaning *(i) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (ii) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.*
12. In this instance, the proposed curtilage would accord in respect of size with part ii) of paragraph X. However, in seeking to facilitate the provision of a means of pedestrian access to the building across the existing field, the land allocated for this purpose would not accord with the definition of a curtilage, as it would incorporate land which would be up to 23 metres away and therefore not immediately beside or around the agricultural building. As such, in this instance, the extent of the access as shown cannot therefore be incorporated as a part of the proposed curtilage, and with reference to paragraph 109 of the

National Planning Practice Guidance, the location and siting without an access would be impractical and not sensible or realistic.

13. For this reason, I must agree with the Council's assessment of the location in the context of paragraph Q.2(1)(e) of the GPDO, that whilst the siting of the building would not be undesirable, the absence of any form of access to the site makes its location impractical for the purpose of conversion from an agricultural building and occupation for use as a dwelling within Class C3.

Other Matters

14. The appellant has suggested the possibility of a potential fallback position in being able to construct an access or hardstanding under the permitted development rights that would be available to an agricultural unit. Whilst the appellant has not expanded on the matter beyond this brief statement, I am mindful that for development to be permitted development under Part 6, Classes A or B of the GPDO, it must be undertaken on 'agricultural land comprised in an agricultural unit' and 'reasonably necessary for the purposes of agriculture within that unit'.
15. However, in light of the appellant's statement within the Design & Access Statement regarding the cessation of use of the building for agricultural purposes within 2017 and that there is no intention in the future for the appellant to pursue an agricultural use in the future, there must be some considerable doubt as to whether a fallback position does exist. Therefore, in the absence of any further specific detail or analysis as to how this might be feasible against the relevant parts of the GPDO, I have not attached any significant weight to this contention.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

Martin Seaton

INSPECTOR