



Appeal Decision

Site visit made on 4 January 2021

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th January 2021

Appeal Ref: APP/J3720/W/20/3261161

Spernal Hall Farm, Spernal Lane, Spernal B80 7ET

- 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 Mrs E Shaw against the decision of Stratford on Avon District Council.
 - The application Ref 20/01709/COUQ, dated 24 June 2020, was refused by notice dated 19 August 2020.
 - The development proposed is to convert a range of agricultural barns into 3 x 2 bed and 2 x 3 bed residential properties with associated garden and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development above is as set out on the Appeal Form and is also very similar to that used on the Decision Notice. I have utilised this above and in the determination of this appeal since it has been adopted by the appellant on the appeal form and, has greater clarity than the information as set out on the application form.
3. The appeal proposal is a resubmission of an earlier scheme for which Class Q Prior Approval was refused (Ref: 20/00490/COUQ). The appellant has indicated that the appeal proposal specifically addresses the reason for refusal by including the land comprising covered parking areas and shared entrances within the curtilage calculation. Notwithstanding this, the wording of the reason for refusal of both the earlier scheme and the appeal proposal are the same.
4. The Council Officer's Report found that the appeal proposal breached the floorspace ceiling for larger dwellings established under criterion (b)(i)(bb) of Paragraph Q.1 of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended. In respect of the other criteria under Q.1, the Council Officer's report did not raise additional concerns. The Council was also content that the technical considerations under Q.2 could be satisfactorily addressed by way of planning conditions.
5. However, the Council have subsequently made reference to 2 more recent Class Q conversions that have been approved at Spernal Hall Farm. Approval Ref: 20/02905/COUQ covers the smaller of the 2 barns covered by the current appeal, effectively duplicating the appeal proposal for that building. Approval

Ref: 20/02904/COUQ is more significant for the current appeal because this was for the Class Q conversion of a further barn located elsewhere on the same agricultural holding. This would mean that if I were to allow the current appeal then, there would be 6 dwellings approved under Class Q. It is therefore necessary for me to also consider the implications of this under criterion (d)(ii) of paragraph Q.1 of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended.

Main Issue

6. Whether the proposed conversion falls within the scope of criterion (b)(i)(bb) and criterion (d)(ii) of Paragraph Q.1 of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended.

Reasons

7. Turning first to consider the implications of the appeal proposal under criterion (b)(i)(bb) of Paragraph Q.1 of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended. The Council consider that the appeal proposal falls outside the remit of Class Q on the grounds that the cumulative floorspace of the larger dwellings proposed would exceed the limit of 465 sq m.
8. The proposal would lead to the conversion of 2 agricultural barns to 5 dwellings. Barn A would accommodate 4 dwellings of which 2 dwellings (units 1 and 2) would be classified as larger dwellings and Barn B would accommodate unit 5, a further larger dwelling. The proposal would involve the removal of significant areas of roof cladding from Barn A across proposed communal amenity space which would form the shared access to Units 1-4 as well as parking for units 1,2 and 4. A small part of the roof cladding to Barn B would be similarly removed, but this would affect the parking area of unit 5 alone.
9. The appellant indicates that the cumulative living space to be provided within the 3 larger dwellings through the conversion would be 432 sq m. This is disputed by the Council. The crux of the matter is whether the floorspace converted to residential use (C3) but, utilised for amenity and/or parking space within the footprint of the existing barns should be counted as falling within the residential floorspace or, as part of the curtilage thereby outside the scope of the residential floorspace.
10. The proposed design of the conversion for Barn A would retain the main structural elements of the existing building including the steel frame including roof rafters and purlins. The roof cladding, but not the rafters and purlins, would be removed across the shared amenity space and parking leaving those areas open to the elements. The only exception to this would be the complete removal of a canopy to the existing, open southern elevation to Barn A.
11. The appellant has drawn my attention to another Class Q conversion (Ref: 20/00147/COUQ) where a section of the former barn would be completely demolished including the steel structure of that section. That area would then be utilised to provide outdoor amenity space for the remaining part of the building converted to residential use. While there are some similarities with the current appeal, the provision of the 4 units within Barn A would be dependent on the retention of all the structural elements of the existing building

- comprising the frame, rafters and purlins. If the rafters and purlins were removed from the sections to be left open then, the remaining structure would not appear to be capable of conversion on the lines proposed, at least not without new structural works which would not be possible under the provisions of Class Q. From this perspective, I find that the shared areas including the access/ entrance, should be counted as falling inside the residential floorspace. On this basis, the cumulative floorspace attributable to the larger dwellings would exceed 465 sq m.
12. Further weight is added to this interpretation by the definition of curtilage in this context. Paragraph X of Part 3 of the GDPO defines this as "land immediately beside or around the agricultural building". I am not persuaded by the appellant's suggestion that there is nothing in the regulations to say the curtilage cannot be created within the footprint of the building. This is because the unclad elements of the appeal building would remain in place as an integral part of the structure after the conversion.
 13. I recognise that it is possible for part of a farm building to be converted under Class Q but, in those circumstances, the remainder would remain in its existing agricultural use. That is not the case with the appeal scheme where the use of the whole of the existing building would change. The communal/parking elements within the existing structure of Barn A comprise almost 30% of the existing floorspace.
 14. The appellant has referred to *Hibbitt and another v Secretary of State for Communities and Local Government and another* [2016] EWHC 2853 (Admin). That case concentrated on what works might be permissible under a conversion as opposed to works that would amount to a rebuild, with the latter falling outside the scope of Class Q. However, it appears to me, that in relation to the current appeal, the circumstances are different and, I would not agree that this Judgement provides comfort to the appellant that the areas left in the open but lying within the existing building structure should not be included within the floorspace calculation.
 15. Accordingly, I find that my assessment of the appeal proposal conflicts with the requirements established under criterion (b)(i)(bb) of Paragraph Q.1 of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended.
 16. Moving on to consider the implications of the appeal proposal under criterion (d)(ii) of Paragraph Q.1 of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended. This states that development is not permitted by Class Q if the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 5.
 17. Prior Approval was granted on 1 December 2020 under application Ref: 20/02904/COUQ for the change of use of an agricultural barn to 1 no dwelling with associated works. This barn is located nearby, on the same landholding, at Spernal Hall Farm. The effect of that approval is, that if I were to allow this appeal then, the number of separate dwellings that could be created as Class Q conversions would be 6.
 18. The appellant has responded to indicate that the barn under Ref: 20/02904/COUQ also has extant planning permission (Ref: 19/02236/FUL) for

conversion to a holiday let and, should the current appeal be permitted then that property would be converted to the holiday let thus ensuring the Class Q threshold of 5 dwellings would not be breached.

19. I do not consider that such an indication would be sufficient and, notwithstanding my findings above in relation to criterion (b)(i)(bb), even if I were inclined to allow this appeal, it would neither be possible to extinguish another approval (Ref: 20/02904/COUQ) by way of a planning condition nor would it be possible to include a condition requiring the matter to be closed as part of a legal undertaking. The other Class Q conversion approved on 1 December 2020 (Approval Ref: 20/02905/COUQ) does not give rise to similar concerns as this proposal duplicates the conversion of Barn B to a larger dwelling as per the current appeal proposal.
20. Accordingly, I find that my assessment of the appeal proposal conflicts with the requirements established under criterion (d)(ii) of Paragraph Q.1 of Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended.

Conclusion

21. For the reasons given above, I conclude that the appeal proposal would fail to satisfy the requirements established under criteria (b)(i)(bb) and (d)(ii) of Paragraph Q.1 of Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended. Accordingly, the appeal is dismissed and, prior approval refused.

David Carter

INSPECTOR