



Appeal Decision

Site visit made on 9 February 2021

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

an Inspector appointed by the Secretary of State

Decision date: 01 March 2021

Appeal Ref: APP/D0840/W/20/3262050

Lower Mushroom Farm, Tresavean, Lanner, Redruth TR16 6AL

- 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.
 - The appeal is made by Mr & Mrs Adams against the decision of Cornwall Council.
 - The application Ref PA20/02545, dated 9 March 2020, was refused by notice dated 10 July 2020.
 - The development proposed is the change of use from agricultural building to dwelling house.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for the change of use from agricultural building to dwelling house at Lower Mushroom Farm, Tresavean, Lanner, Redruth, TR16 6AL, in accordance with the terms of the application Ref: PA20/02545, dated 9 March 2020, and the plans submitted with it. The approval is subject to the condition that 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.

Procedural Matters

2. The original description of development provided on the planning application form included the term "application for prior notification". In the interests of accuracy and consistency, I have amended the original description of development to omit the term "application for prior notification" as this section of the description does not relate to a matter for which planning permission is required.

Main Issue

3. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) having particular regard to the requirements of Paragraphs Q.1.(a) in relation to agricultural use.

Reasons

4. Schedule 2, Part 3, Class Q of 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 dwellinghouse, together with building operations reasonably necessary to

convert the building to a dwellinghouse. Paragraph Q.1(a) 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 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.

5. The appeal site comprises a single storey building and associated land, located south of Lanner. The appeal building appears to be constructed in a combination of concrete blockwork, stone and timber, with parts of the structure having dual pitched or mono pitched roof forms. The surrounding area is predominately open agricultural land, with polytunnels located to the northwest and with Tresavean Farm being located to the south of the appeal site.
6. As I observed on my site visit, the appeal building is somewhat run down and did not appear to have been in use for some time. The building had areas of glazing that had been broken and there were substantial areas of the structure that had partially collapsed or were left open to the elements and where vegetation had encroached into the building itself.
7. It has been put to me by the Appellants that the appeal scheme would comply with the requirements of paragraph Q.1(a)(ii) of the GPDO, as it is maintained that the appeal building formed part of the operations of a mushroom farm company previously located at the site and which followed the use of the building as part of an established agricultural unit known as Tresavean Farm. It is further maintained that the use of the site has not changed since the Appellants purchased the land from the aforementioned mushroom farm company.
8. As noted above, the provisions of Class Q relate to the last use of the building and whether any agricultural unit had been established on or before 20 March 2013. Consequently, the outcome of the appeal rests on the evidence relating to historical uses. In this context, my site visit confirmed that the building was not currently in use and appeared to have not been so for some time. There does not appear to be any substantive information before me which indicates that the site was used for other purposes since it formed part of the mushroom farm operations, as evidenced by the packing materials that were present at the site.
9. In support of the appeal, the Appellants have provided information regarding the previous occupation of the site by Cornish Mushrooms Limited, and which indicates that that company commenced in 1999 and was dissolved in 2006. However, the evidence also indicates that the mushroom farm was a dormant company which suggests that the company did not carry out any business during those periods.
10. An "agricultural building" is defined in Section X, Part 3, Schedule 2 of the GPDO as "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". Whilst the definition in Section X does not require the activity to make a profit, to be considered an agricultural building, it must be used as part of a trade or business.
11. As such, given that the mushroom farm company appeared to be dormant during the period it occupied the site, it could be said that it was not used as

part of an agricultural trade or business. However, even in the event that occupation of the appeal building by the mushroom farm company was not considered to be 'agricultural use', it does not appear from the evidence before me that the purchase of the site by the mushroom farm company resulted in any change to the use of the site.

12. In this regard, the submitted evidence and information indicates that the appeal building and site previously formed part of Tresavean Farm. Conveyance details from 1993 show the appeal building as forming part of the property to be retained in relation to Tresavean Farm and it is noted that that conveyance included references to damage in relation to livestock at Tresavean Farm which indicates that the retained land and buildings were in agricultural use after the date of that transfer of title. It is further noted from the details submitted in support of this appeal, that the appeal building was still part of that agricultural unit as at 1997 when a planning application for the polytunnels located northwest of the site was considered by the Council.
13. There appears no logic as to why the building could or would not have reasonably been used for agriculture as part of Tresavean Farm prior to its transfer to Cornish Mushrooms Limited. Cumulatively, the evidence suggests that the building was historically part of a working farm, used for the purposes of agriculture and that an agricultural unit was established before the relevant trigger date under Class Q of the GPDO. Accordingly, on the balance of probability, and based on all of the evidence before me and from observations made on my site visit, I have no reason to doubt the Appellants' contention that the last use of the building was for agriculture and that this was part of an established agricultural unit.
14. Planning Practice Guidance states that the prior approval process is meant to be light-touch and does not seek to replicate the planning application system, and I have taken a straightforward view of requirements in this context. The GPDO does not require the use to have been continuous up until the planning application was submitted. Whether the use of the building in this case has been abandoned or not is a peripheral matter as the GPDO merely requires that the last use was for agriculture and that this use was part of an agricultural unit established on or before 20 March 2013.
15. For the above reasons, the appeal proposal is permitted development under Schedule 2, Part 3, Class Q.1 of the GPDO.

Other Matters

16. No evidence has been presented that the proposed development would result in any significant transport and highway impacts, noise impacts, contamination or flood risks, nor would be considered to be impractical or undesirable for the building to change from agricultural use. I also find, the proposal would be acceptable in terms of matters (a), (b), (c), (d) and (e) of Paragraph Q.2(1) of Part 3 of Schedule 2 of the GPDO. With regards to design and external appearance, the proposed dwelling would successfully integrate the existing building with new features to facilitate its conversion and I am satisfied it does not raise issues that require further assessment and therefore meets matter (f) of Paragraph Q.2(1) of Part 3 of Schedule 2 of the GPDO.

Conditions

17. Section W of Part 3 of Schedule 2 of the GPDO allows Local Planning Authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. Notwithstanding that the main parties have not suggested any conditions, I have attached the standard condition set out in paragraph Q.2(3) relating to timescales, which requires development to be completed within 3 years of the decision date.

Conclusion

18. For the reasons set out above, I conclude that the appeal is allowed and prior approval is granted.

A Spencer-Peet

INSPECTOR