



Appeal Decision

Site visit made on 6 April 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2021

Appeal Ref: APP/L1765/W/20/3264841

Anthill Farm, Hambledon Road, Denmead PO7 6ES

- 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 Clive Wakefield against the decision of Winchester City Council.
 - The application Ref 20/00817/PNACOU, dated 16 April 2020, was refused by notice dated 16 June 2020.
 - The development proposed is conversion of existing barn to provide a single storey one bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Schedule 2, Part 3, Paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015¹ (GPDO) sets out the prior approval process. It states² that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval.
3. The Council's statement of case confirms that the Council's reason for refusal incorrectly referred to section (f) of Class Q.1 rather than section (g) of Class Q.1, reflecting a previous form of the legislation. The relevant section is now (g) of Class Q.1, but the specific requirements of this criterion have not changed. Since the appellant would not be prejudiced by this change in section numbering, and has had the opportunity to comment upon the Council's statement, I have dealt with the appeal accordingly.

Main Issues

4. The main issues are:
 - Whether the proposal would be permitted development (PD) under Schedule 2, Part 3, Class Q of the GPDO; and

¹ SI 2015 No.596

² Paragraph W.(3)

- If so, whether or not prior approval would be required in accordance with the condition set out in Paragraph Q.2 (1) of the GPDO.

Reasons

Whether the proposal would be permitted development

5. Class Q permits development consisting of (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) or (b) development referred to in (a) together with building operations reasonably necessary to convert the building referred to in (a) to a Class C3 (dwellinghouse) use. The appeal relates to development under both Q(a) and Q(b), so that the proposal relates to the change of use to residential as well as associated facilitating works.
6. Paragraph Q.1 (g) states that development is not permitted by Class Q if certain works were carried out on the established agricultural unit either since 20 March 2013, or where development under Class Q begins after 20 March 2023, during the period which is 10 years before the date development under Class Q begins.
7. These works include development under Schedule 2, Part 6 Class A(a) or Class B(a) of the GPDO. The former relates to agricultural development on units of 5 hectares or more, and the latter to agricultural development on units of less than 5 hectares. The Council considers that the agricultural unit is over 5 hectares, but the appellant's supporting statement submitted with the planning application states that it is 4.05 hectares (10 acres) in size. Notwithstanding this, Class A(a) comprises '*works for the erection, extension or alteration of a building*' and Class B(a) comprises '*the extension or alteration of an agricultural building*'. As such, in respect of the agricultural holding sizes put forward by both main parties, the criteria of section (g) of Q.1 would include alterations to the building.
8. The building to be converted comprises a pole barn which is used for agricultural storage, and is accessed from the west side of Hambledon Road via an access track which runs past several other buildings. The building has corrugated metal cladding to 3 sides, a corrugated metal barrel roof, and an open frontage. It is supported by 10 circular timber poles, which are set into a concrete slab base and positioned around the perimeter of the building, connected by rectangular eaves beams and a central horizontal rail.
9. The evidence before me is that the building to be converted has been altered since the refusal of a previous application in respect of the appeal site, Ref 18/02896/PNACOU, on 9 April 2019. The application, the subject of the current appeal, was supported by a structural engineers report by H J Concepts Ltd dated 24 January 2020 (the SER). This includes a brief to '*re-visit the property and carry out an inspection of the structural repairs undertaken to the building following the issue of the original report dated 7 March 2019 and the structural repair detail issued in July 2019.*'
10. The SER executive summary confirms that building repairs and strengthening had been undertaken where rotten timbers were originally found, and that substandard connections were strengthened with additional brackets and mechanical fixings. It concluded that, on this basis, the building was now

structurally sound and able to be converted into a dwelling without further structural repairs.

11. Having regard to the contents of the SER, which include photographs of the building before and after the aforementioned works were carried out, and my site inspection, it is evident that the lower part of each of the front 4 timber posts and one of the back corner posts have been altered by the removal of rotten timber and the insertion of a steel plate, bolted onto a concrete pad foundation and extending to approximately between one quarter and one third of the height of the posts. It is also evident that the formerly sagging roof was straightened through the process, as the central columns were lifted to straighten the eaves beam on the front elevation.
12. Having regard to the contents of the SER, and an email by the structural engineer dated 10 June 2020, which has been drawn to my attention by both parties, I find that the works that have taken place on the agricultural building since April 2019 constitute alterations and strengthening of the structure of the barn. As such, these works fall within the remit of criteria (g) of Class Q.1.
13. For the above reasons, I therefore conclude that, based on the evidence before me, the proposed use of the existing barn would not satisfy the requirements of Schedule 2, Part 3, Class Q of the GPDO, and therefore is not development permitted by it.

Prior approval

14. Given my conclusion that the proposal would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required, as it would not alter the outcome of the appeal.

Other Matters

15. The site lies within the zone of influence of the Solent and Southampton Water Special Protection Areas (SPAs), which are internationally designated sites of nature conservation importance, with special reference to birds. The appeal scheme is likely to have a significant effect in combination with other plans and projects on the SPAs through increased levels of nitrogen and phosphorus entering the water from waste-water from residential development.
16. Article 3(1) of the GPDO grants planning permission for the classes of development described as PD in Schedule 2, subject to Regulations 75 - 78 of the Conservation of Habitats and Species Regulations 2017. Regulation 75 provides that it is a condition of any planning permission granted by a general development order made on or after 30 November 2017, that development which, (a) is likely to have a significant effect on a European site or a European offshore marine site, alone or in combination with other plans or projects, and (b) is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 77.
17. The Regulation 77 application may be submitted and approved after prior approval is given for the development, and it would be for the local planning authority to determine, outside the scope of the prior approval process. As such, and, having regard to my findings on the first main issue, there is no need for me to consider the implications of the proposal on the SPAs.

18. I acknowledge the appellant's proposed site improvements associated with the appeal scheme, including biodiversity enhancements, reduced carbon footprint, surface water drainage improvements, improved on-site security and proposed sustainable construction. However, these are not matters for consideration under this appeal, which relates to an application to determine if prior approval is required for a proposal.

Conclusion

19. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the local planning authority to consider in the first instance, and cannot be addressed through prior approval provisions set out under paragraph Q.2(1) of the GPDO.
20. The appeal is, therefore, dismissed

S Leonard

INSPECTOR