



Appeal Decision

Site visit made on 19 May 2021

by **Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 July 2021

Appeal Ref: APP/P1133/W/21/3267780

Five Wyches Farm, Road from Lowerdown Pottery to Fire Station, Bovey Tracey TQ13 9LE

- 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 Ms E Druce against the decision of Teignbridge District Council.
 - The application Ref 20/01412/NPA, dated 11 August 2020, was refused by notice dated 20 October 2020.
 - The development proposed is the change of use of an existing agricultural barn to a residential dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the Supporting Statement originally submitted with the planning application.
3. The application includes details of both the change of use and the building operations necessary to convert the building.

Background and Main Issue

4. Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits, under Class Q(a), development consisting of 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), and, under Class Q(b), building operations reasonably necessary to convert the building for that purpose.
5. Paragraph X of the GPDO explains that for, the purposes of Class Q, '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. Thus, whether or not a building is a candidate for development under Class Q is not an issue that turns simply on whether or not it maintains a lawful agricultural land use.
6. Rather, the existing use of the site must be as specified by Class Q at the time of the application for Prior Approval (11 August 2020 in this case). Moreover, development is not permitted by Class Q.1 (a) if a site was not used solely for an agricultural use as part of an established agricultural unit (i) on 20 March 2013 (the Operative Date) or (ii) in the case of a building in use before that date but not in use on that date, when it was last in use, or (iii) in the case of a

site which was brought into use after the Operative Date, for a period of at least 10 years before the date development under Class Q begins.

7. The Council considers that the proposal fails to meet Schedule 2, Part 3, Class Q (a), with reference to Paragraphs W and X of the GPDO and interested parties have also questioned the use of the building on, before and after the Operative Date. Consequently, the main issue is whether or not the proposal would constitute permitted development having regard to Class Q of the GPDO.

Reasons

8. The site comprises a building (the Subject Building) and adjoining land set within a field at Five Wyches Farm, which also contains a campsite of the same name. A track provides access to the Subject Building and the campsite from the B3387 to the north. The Subject Building was constructed in 2009 under Ref 08/04233/AGR and pursuant to Schedule 2, Part 6, Class A of the GPDO.
9. The appeal is submitted with a statutory declaration made by Sarah Druce. With regard to the Operative Date, it states that, following the erection of the Subject Building, the land was rented to one John Pickett and one Jenny Pierson. Under a given County Parish Holding number (CPH 10/379/0119) (CPHN), John Pickett and Jenny Pierson raised goats and sheep for the purposes of selling between 2010 and 2016. Between 2012 and 2016 they also harvested hay and stored it in the Subject Building in relation to this business.
10. The statutory declaration is linked to several undated photographs which show hay making taking place in the field within which the Subject Building is sited, and hay being stored within what is likely to be the Subject Building. The statutory declaration states, on this basis, that on the Operative Date the Subject Building was used solely for agricultural purposes as part of an agricultural trade/business. The statutory declaration constitutes sworn first-hand evidence and accordingly attracts significant weight in my assessment.
11. The assertions of non-agricultural use around this time are not in the form of statutory declarations and there is limited indication of earlier non-agricultural activity within the Subject Building, and none which can be firmly attributed to the Operative Date. The size of the barn, even if I accept it to be quite large for its intended agricultural use, does not evidence any alternative use either.
12. The Council has referred to various correspondence the landowner had between 2011 and 2016 with the Camping and Caravanning Club. There is no information as to the outcome of this correspondence, nor do I consider this evidence to establish that the site was used for such leisure purposes on the Operative Date. Indeed, the 2015 satellite image provided by the Council does not appear to show any sign of caravanning or camping in the field where the Subject Building is set. Instead, it appears to show that the field had been cut.
13. Furthermore, whilst a chronology of satellite photography of Five Wyches Farm has been supplied by an interested party, none of the images were taken in 2013. The nearest dated image, from 2011, also appears to show that the field containing the Subject Building had been cut. As such, these satellite images are more corroborative than contrary to the appellant's version of the events taking place inside the Subject Building on the Operative Date in my opinion. For these reasons, it is likely that the building was used solely for agriculture as part of an established agricultural unit on the Operative Date.

14. However, from 2018 the level of evidence of agricultural use falls away notably. Certainly, compared to the era where John Pickett and Jenny Pierson were farming under a CPHN, there is little evidence of activity nor a link to a trade or business. The statutory declaration only makes reference to the storage of hay for selling up until 2019 and there is no CPH nor are there business accounts before me. Conversely, an interested party has provided theoretical accounts, the content of which is not disputed, which indicate that the campsite use is the dominant enterprise at Five Wyches Farm. This time, there is no recent satellite imagery showing that the field within which the Subject Building is sited has been cut. There was very little hay in the barn during my visit.
15. The statutory declaration states that from 2018 to 2019 the Subject Building was also utilised for a degree of transitory domestic storage. Photographs and the Structural Report submitted with the planning application, when cross referenced with the campsite website, also indicate, through the presence of outdoor furniture, fire pits, and possibly firewood, that storage related to the campsite has more recently been taking place within the Subject Building.
16. The appellant considers any storage use as 'de minimis' and has referred to appeal decisions where such did not preclude a proposal from Class Q. However, whilst the storage in association with the campsite may be modest in quantity, there is more clear recent evidence of it than agriculture. Moreover, the campsite is an established part of Five Wyches Farm and the Subject Building has an intimate relationship to the campsite, which logically lends it to secure and dry storage for items related to the campsite use. As such, it is likely that this storage has been a firm fixture within the appeal site. I do not therefore consider that it can be held to be de minimis. It is more likely that the Subject Building has come, as of 11 August 2020, to maintain a mixed use for agriculture and for storage in association with the campsite.
17. Drawing my findings together, the Subject Building was an agricultural building as defined by the GPDO on the Operative Date. Yet, the evidence of intervening storage in association with the campsite coupled with the limited evidence of agriculture at the same time casts significant doubt in my mind as to the status of the building as an agricultural building as defined by the GPDO on 11 August 2020, at the time of the submission of the Prior Approval application.
18. Under Schedule 2, Part 3, Paragraph W. (3) of the GPDO, an application may be refused where insufficient information is provided to enable the decision maker to establish whether the proposal complies with any conditions, limitations or restrictions as may be applicable to the development. In this case, insufficient information has been provided to enable me to establish with any degree of certainty whether the Subject Building is an agricultural building as the GPDO defines it. I therefore conclude that the proposal would not constitute permitted development having regard to Class Q of the GPDO.

Conclusion

19. For the reasons above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

Matthew Jones
INSPECTOR