



Appeal Decision

Site Visit made on 26 August 2021

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/R3650/W/21/3269985

Land East of Loxwood Road, Alford, GU6 8ET

- 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 (GPDO).
 - The appeal is made by Mr H Knight against the decision of Waverley Borough Council.
 - The application Ref PRA/2021/0001, dated 31 December 2020, was refused by notice dated 26 February 2021.
 - The development proposed is change of use of an agricultural building to a dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to two buildings accessed via an unmade track from Loxwood Road to the south of Alford. Building 1 is a barn with a shallow pitched roof and two large openings to its front to facilitate the movement of vehicles and trailers. Building 2 located on the opposite side of a small forecourt is lower and shorter. There are other buildings and structures nearby within the site indicative of a former agricultural use.
3. Class Q permits development consisting of (a) a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order (1987 as amended) or (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule. Paragraphs (a) and (b) are therefore alternatives, as indicated by the linking word "or". It does not follow that an application for development under Class Q(a) automatically includes building operations under Q(b).
4. The planning application form and appeal form both describe the proposal as a change of use of an agricultural building to a dwelling house. Section 7 on the application form asks the question, "*Are any associated building works or other operations required to make this change?*". The answer provided is "No". This indicates that the proposal is just for a change of use under Class Q(a). Paragraph W.(2)(a) of the GPDO, following amendments made in 2018, states that the application must be accompanied by "*a written description of the proposed development, which, in relation to development proposed under Class C, M, N or Q of this Part, must [in the same application] include any building or other operations*".

5. A Planning Statement accompanied the application. Its heading refers to a proposed change of use but not to building operations. The Planning Statement is comprehensive in relation to policy and legislative issues. At Paragraph 4.0.1 it states, "*The proposal relates to the change of use of one existing agricultural building and the land within its curtilage into one dwelling house*". Again, there is no express reference to associated building operations. Reference is made to whether "*the prior approval of the LPA is required in relation to the design or external appearance of the building*" at paragraph 8.0.1. However, this matter, under Q.2.(f) only falls to be considered if the proposal is confirmed to be permitted development. The proposal does not include a written description of building or other operations as required under Paragraph W.2.(a) of the GPDO for the proposal to be determined under Q(b).
6. My determination of the appeal is therefore is just for the change of use of Building 1 to a dwelling. However, the submitted plans also show extensive building works to reclad parts of Building 1 with new window and door openings and to construct an internal first floor and for Building 2 to undergo physical alterations to its front elevation to enable it to be used as a store/games room. It is evident that the Council's determination of the proposal also references these building works.
7. A previous application for the proposed change of use (ref. PRA/2020/0024) was refused as the Council claimed the site was not used for agriculture.

Main Issues

8. The main issues are:
 - (a) whether the proposal satisfies the requirements for permitted development having regard to any extant planning conditions and to the limitations under Class Q.1, and
 - (b) if the proposal is permitted development, whether it would satisfy the requirements of conditions set at Q.2(1).

Reasons

9. Paragraph Q.1.(a) states 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 20th March 2013. Planning permission was granted for the erection of an agricultural barn and associated works at the site on 6th September 2013. That application post-dates 20th March 2013 but was retrospective. The application form states that work on the barn started in June 2011 and was completed in October 2012. The appellant's evidence includes movement of livestock records to corroborate agricultural use of the site prior to 20th March 2013.
10. However, planning permission was only granted for a temporary period of 24 months. This was because it had not been demonstrated that the agricultural holding is yet viably established, and it would be prudent to apply a temporary consent to allow the business to establish. The time limitation of 24 months is specified in a planning condition requiring after this time that the barn and hardstanding should be removed. It is evident that the barn has not been removed. There is no evidence before me that it has been subject to any enforcement action. Neither is there any evidence that the planning condition has been removed.

11. Article 3 part (4) of the General Permitted Development Order states that *"Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order."* The planning condition requiring demolition of the building remains extant and has precedence over permitted development opportunities for its change of use in the GPDO.
12. My findings are that whilst the site was in use as part of an agricultural unit on 20th March 2013, the agricultural use was not established in that the planning permission upon which it relies has lapsed and the planning condition requiring removal of the barn remains in place. The proposal therefore does not satisfy the requirements for permitted development having regard to any extant planning conditions and the limitations under Class Q.1. It would not be permitted development.

Other Matters

13. The Council contends that the proposal would not be permitted development in relation to Q.1.(i) relating to whether any building operations would be reasonably necessary for the building to function as a dwellinghouse. I do not need to decide on this issue, which in the Council's submissions necessarily relates to the alternative Class Q(b) submission of a change of use with building operations. I have determined that the proposal is not permitted development under Class Q(a) relating to a change of use of a building and land.
14. The Council contends that prior approval would be required in relation to contamination risks on the site, a condition specified under Q.2(1). However, as the proposal would not be permitted development, it is not necessary for me to consider whether prior approval would be required under any of the clauses set out at Q.2(1).

Conclusion

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

Rory MacLeod

INSPECTOR