



Appeal Decision

Site visit made on 22 September 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2021

Appeal Ref: APP/D1265/W/21/3267063

The Barn, Over Compton, Serborne, Dorset DT9 4QU

- 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 and Mrs John Freeman against the decision of Dorset Council.
 - The application Ref WD/D/20/002104, dated 22 June 2020, was refused by notice dated 8 October 2020.
 - The development proposed is the change of use of agricultural building to dwelling (Use Class C3) and associated operational development.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development from the appeal form as this is where it is most accurately conveyed.

Main Issue

3. The main issue is whether or not the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (Amendments and Consequential Provisions) (England) Order 2015 (the GPDO).

Reasons

4. Class Q of 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), development referred to in paragraph (a) with the 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 used for agriculture and which is so used for the purposes of a trade or business and 'agricultural use' refers to such uses. 'Established agricultural unit' means agricultural land occupied as a unit for the purposes of agriculture
6. 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 site comprises a large steel portal framed building (the Subject Building). It is not disputed that the Subject Building was not in agricultural use on the Operative Date nor is it suggested that it came into agricultural use after that date. I must therefore consider the Subject Building when it was last in use.
8. The appellants bought the nearby The Manor House site, the Subject Building and associated land in 2000 and it is corroborated by interested parties that they kept sheep here. Mr Freeman did so as a registered farmer and, whilst the nature of the keeping of sheep has been questioned, I have been supplied with a flock record dating from 2000. The record shows that the appellants bred sheep at the site. The numbers involved suggest that this formed part of an agricultural trade within an established agricultural unit. It also seems illogical to conclude that this work would not have utilised the Subject Building. I have no firm evidence of an alternative use being carried out here during this time.
9. This keeping and breeding of sheep ceased by 2010. The electricity supply to the Subject Building drew little use thereafter and was deenergised in 2016. In 2019 it is documented that farm machinery, including a tractor and a topper, was auctioned, with photographs suggesting that these items were stored in the Subject Building. Further items were sold to a Jonathan Wareham in 2020. This evidence supports the position that, beyond 2010, the Subject Building continued to be used for the storage of items related to its past farming use.
10. However, I have also been shown a photograph, which dates from 2020, of road vehicles and what appears as other non-agricultural storage in the Subject Building. Whilst it is contended that the just visible Morris Minor was used for the transport of hay, straw and feed, this does not explain the presence of the other vehicles. As such, this is evidence of a primary storage use which I cannot consider incidental to agriculture. The evidence therefore draws the conclusion that the barn was not solely in agricultural use when it was last in use. It follows that the proposal is outwith the limitations of Class Q.1 (a).
11. The Council also considers the proposal to reach beyond the definition of a conversion given the extent of work that would be involved. Class Q accepts that the installation or replacement of windows, doors, roofs or external walls can be allowable but its overarching provision states that building operations must be reasonably necessary to 'convert' the building. It is established by case law¹ that, if the works go beyond what would amount to a 'conversion', then the development would fail at the first hurdle. This is a matter of planning judgment without a defined or prescribed threshold. In addition, the Planning Practice Guidance (the PPG) states that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use.
12. The appeal is accompanied by a 'Report Upon Visual Inspection'. It states that the existing asbestos roof covering should be replaced. To achieve necessary insulation, the walls would have to be removed entirely or alternatively could be retained if an internal timber framed wall envelope is built. The document also states that the proposed first floor could be supported on the 'new walls'. It is unclear if this reference to new walls refers to the option of the internal timber envelope or the alternative new cavity walling. As such, it is not clear from the document if the first floor could be structurally incorporated into the Subject Building without the wholesale removal of its wall cladding.

¹ Hibbitt & Anor v Secretary of State for Communities & Local Government & Ors [2016] EWHC 2853 (Admin)

13. In any event, the drawings before me show that it is proposed to remove the wall cladding. As such, the external and internal walls, roof finish and both floors of the dwelling would be new, with little more than the steel frame retained, about 20% of which would also be removed. Whilst this work may be required by the Building Regulations, this does not alter my judgment that very little of the Subject Building would be present within the new dwelling indeed.
14. I accept that the works set out within Class Q can, in some cases, be extensive and that, taken in isolation, some of the individual elements of the appeal proposal would be considered to be acceptable. However, it seems to me that the nature and extent of the proposed building operations I have set out above, when considered as a whole, would be of such magnitude as to qualify as a rebuild (or fresh build), thereby falling beyond the scope of the GPDO.
15. The appellants have referred to several of the Council's decisions elsewhere in relation to Class Q schemes². However, whilst there appear to be some similarities between the given examples and the proposal, the issues around Class Q are highly fact sensitive, turn on site specific circumstances, and are the preserve of planning judgment. For instance, the inspection document at Charlton Down found the existing barn to have a partial concrete floor and its columns to benefit from pad foundations, which have not been found here. I am not wedded to the previous decisions of the Council at other sites in any case. As such, these decisions have had little weight in my assessment of this scheme.

Other Matters

16. The appellants have also referred to the suitability of the location for housing, the need to find a new use for the Subject Building, the energy efficiency of the design and the conduct of the Council during the prior approval process. However, these matters are not germane to my assessment of the proposal pursuant to the GPDO.

Conclusion

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

Matthew Jones

INSPECTOR

² Refs WD/D/19/002775, WD/D/20/000332, WD/D/20/000885, WD/D/17/001417 and WD/D/20/002054