
Appeal Decision

Site Visit made on 23 November 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Appeal Ref: APP/J1860/W/21/3278675

Barn at The Farthings, Gloucester Road, Castlemorton, Malvern WR13 6JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Peter Wilkes against the decision of Malvern Hills District Council.
 - The application Ref 21/00254/GPDQ, dated 5 February 2021, was refused by notice dated 28 April 2021.
 - The development proposed is conversion of barn to single dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would be granted planning permission by Article 3(1) and Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), with regard to Paragraph Q(a) and whether the appeal site is an agricultural building and Q(b) building operations reasonably necessary to convert the building.

Reasons

Whether the appeal site is an agricultural building

3. Schedule 2, Part 3, Class Q of the GPDO permits development consisting of Q(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) of the Schedule of the Use Classes Order, or Q(b) building operations reasonably necessary to convert the building.
4. Part 3 of Paragraph X of the GPDO defines an 'agricultural building' as a building used for agriculture and for the purposes of a trade or business. Whether or not the appeal building was an agricultural building on or before the relevant date of 20 March 2013 is a matter of fact and degree based on the evidence submitted and the individual merits of the case.
5. The appeal is formed of a pole barn with a tall pitched roof element and a lean to side extension. The barn has a lightweight agricultural appearance clad in corrugated wall and roof sheets and is open on one side. The building has a timber portal frame sitting on concrete blocks with trusses and purlins spanning the roof. At the time of the site visit the building was largely vacant save for a few miscellaneous items.

6. The Inspector in respect of the previous appeal¹ relating to a similar development on the same site found that there was nothing to doubt that the building was last used for agricultural purposes.
7. Whilst the Council contend that there was no evidence of agricultural activities taking place during their visit to the site this does not mean that the lawful use of the barn and associated land has deviated from an agricultural one. Whilst the barn is largely vacant there is nothing to suggest that an agricultural use or business could not start up once again. I am also not aware that planning permission has been granted for an alternative use at the site since the previous application and appeal.
8. As such, I find that the use of the site has not materially changed from its lawful agricultural use and that other activities, including the hosting of caravans, have not superseded the lawful use of the site.
9. The Council has made reference to 2 appeal decisions which they consider relevant. However, I have limited information about the circumstances of those cases. As such, these decisions do not lead me to reach a different conclusion on this matter.
10. On the balance of probabilities, the building was lawfully last used solely for agricultural use in connection with an agricultural unit. I, therefore, conclude that the criteria under Paragraph Q(a) are satisfied and permitted development rights apply to the site.

Building operations

11. The submitted information indicates that a new floor slab would be laid, the open section would be filled with glazing and timber weatherboarding and windows and doors would be formed to create a one-bedroom dwellinghouse.
12. The Planning Practice Guidance (PPG) recognises that for a building to function as a dwellinghouse some building operations will be necessary and should be permitted. Those rights include the installation or replacement of windows, doors, roofs, exterior walls and services. However, it is not the intention to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
13. The appellant's structural survey indicates that all timbers are in a good state of repair and are located on concrete pad foundations which extend around 1m below ground level. In addition, the survey goes on to state that the side rails, purlins and trusses are in a good condition. Overall, the survey concludes that the barn is in a good structural condition.
14. Notwithstanding the above, the survey sets out that the existing timbers may require some form of strengthening to support insulated cladding panels. However, it does not specify the extent of the works necessary. The report also indicates that sufficient height exists between the ground and underside of the eaves, although it suggests that some alteration to the original roof framework would be required. Again, the extent of the works has not been provided.

¹ APP/J1860/W/17/3168952

Finally, the report indicates that the infill glazing may require some vertical or horizontal support.

15. Taking these together, there is insufficient information to determine that the existing structure is capable of supporting the building operations proposed without new structural elements, and that these building operations would not go beyond those reasonably necessary for the building to function as a dwellinghouse.
16. As a matter of planning judgement and based on the evidence before me, I find that the proposed development would not meet the requirements of Q(b) and Q.1(i).

Other Matters

17. The appellant has made reference to a planning permission neighbouring the site. However, every appeal must be considered on its own merits, as I have done in this case. This permission does not lead me to reach a different conclusion on the main issue.
18. The appellant's comments regarding the Council, local residents, the Parish Council, district Councillor and police is not a matter for me in this appeal.

Conclusion

19. For the reasons set out above I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO.
20. The appeal, therefore, does not succeed.

B Thandi

INSPECTOR