



Appeal Decision

Site visit made on 11 January 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2022

Appeal Ref: APP/H1033/D/21/3281565

Stubbins Farm, Unnamed Road from Stubbins Lane To Tithe Barn Farm, Chinley, Derbyshire SK23 6ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs Broadhurst against the decision of High Peak Borough Council.
 - The application Ref HPK/2021/0256, dated 29 April 2021, was refused by notice dated 16 July 2021.
 - The application sought planning permission for the change of use of agricultural building to one dwelling house at Stubbins Farm, Unnamed Road from Stubbins Lane To Tithe Barn Farm, Chinley, without complying with a condition attached to planning permission Ref DET/2021/0003 dated 9 April 2021.
 - The condition in dispute is No 2 which states that:
The development hereby permitted shall be carried out in accordance with the following approved plans: 100 – Location Plan; 200 – Proposed Plans.
 - The reason given for the condition is:
For the avoidance of doubt and in the interests of proper planning, in accordance with the National Planning Policy Framework.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The original permission¹ was granted under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), subject to the prior approval process of Article 3(1) and Schedule 2, Part 3, Class Q, for the change of use of the agricultural building at the appeal site to one dwelling house, subject to a number of conditions. Condition No 2 required the development to be carried out in accordance with two plans.
3. The appellant subsequently applied to vary this condition, and thus the approved plans, in order to erect a first floor extension over an existing lean-to element of the building. The Council refused that application on the grounds that the proposed extension would harm the traditional rural character and appearance of the former agricultural building and the wider rural landscape character.
4. However, as the original planning permission was granted under the GPDO, it was subject to a number of limitations. Accordingly, as this appeal seeks to

¹ Council reference: DET/2021/0003

vary a condition on that original permission, the main issue in this case is whether or not the amended proposal would be permitted development under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO.

Reasons

5. Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO 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) of the Schedule to the Use Classes Order; [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*'.
6. Paragraph Q.1 goes on to state the circumstances when development is not permitted, with paragraph Q.1.(h) noting that development is not permitted by Class Q if '*the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point*'. As permission is now being sought for the introduction of additional built form through the erection of a first floor extension, thus going beyond the external dimensions of the building, the appeal proposal would fail to comply with Paragraph Q.1.(h).
7. Additionally, paragraph Q.1.(i) states that if '*the development under Class Q(b) would consist of building operations other than (i) the installation or replacement of (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1.(i)(i)*', then, again, it would not be permitted by Class Q.
8. By virtue of the granting of the original permission, it has therefore been established that the change of use of the appeal building, without the additional built form now proposed, is sufficient for the building to function as a dwellinghouse. As such, the extent of the building operations proposed through the addition of a first floor extension goes beyond what is reasonably necessary for the building to function as a dwellinghouse, thus the amended proposal fails to comply with paragraph Q.1.(i).
9. Taking all the above into consideration, I conclude that the proposed variation of condition No 2 of the original planning permission, so as to allow a first floor side extension to be erected, would fail to comply with the requirements of permitted development under Schedule 2, Part 3, Class Q of the GPDO. With this in mind, it is not necessary for me to make a determination of whether prior approval is required for the design or external appearance of the building under paragraph Q.2.(1)(f).

Conclusion

10. For the reasons given above the appeal should be dismissed.

H Ellison
INSPECTOR