



Appeal Decision

Site visit made on 21 December 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2022

Appeal Ref: APP/W1850/W/21/3281620

Barn at Wood House Farm, Edwyn Ralph HR7 4LX

- 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 Mr C Bazeley of Johnson Bros. & Co. Ltd. against the decision of Herefordshire Council.
 - The application Ref 210721, dated 16 February 2021, was refused by notice dated 13 April 2021.
 - The development proposed is change of use of agricultural building to dwellinghouse (Class C3).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of agricultural building to dwellinghouse (Class C3) in accordance with application 210721 made on 16 February 2021, and the details submitted with it, pursuant to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 paragraphs Q(a) and Q(b).

Procedural Matter

2. The description of development is taken from the appeal form. It simply and adequately describes the proposals.

Main Issue

3. 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 particular regard to Paragraph Q(a) and whether the appeal site is an agricultural building.

Reasons

4. 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, and Q(b) building operations reasonably necessary to convert the building.

5. 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.
6. The definition of agriculture at section 336 of the Town and Country Planning Act 1990 includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and 'agricultural' shall be construed accordingly.
7. The appeal site is a Nissen hut formed of a barn and a lean to side extension. The barn has a lightweight appearance clad in corrugated metal sheets and is open on one side. At the time of the site visit the barn was largely vacant save for some hay. Internally the building was subdivided into pens.
8. The Council's contention hinges around uncertainty relating to the previous uses of the site. They are of the view that there was insufficient evidence to demonstrate the development complies with the requirements of Class Q(a). Although they accept that they have no substantive evidence to contradict the appellant's evidence.
9. The appellant advises that the site was used for accommodating sheep and lambing and the storage of hay and straw for animals which is supported by a letter from the previous owners of Woodhouse Farm. I give this significant weight in coming to my decision.
10. The appellant has provided a Holding Number relating to the site. However, I have not been provided with any further information. Accordingly, it is of limited assistance.
11. A general affidavit from a previous owner has been submitted, but this relates to the position of a historic animal burial pit. This affidavit provides limited information to demonstrate that the building was used for no other purpose other than agriculture. I therefore afford this evidence limited weight in coming to my decision.
12. A number of local residents contend that the building has been used for a number of uses other than agriculture. These include vintage car restoration and the keeping of ponies for pleasure. However, this evidence is essentially anecdotal, I therefore give it limited weight in coming to my decision.
13. I acknowledge that the site has been severed from the neighbouring farm and sold to different owners. Whilst the site has been severed from an established agricultural unit this does not mean that the lawful use of the barn and associated land has deviated from an agricultural one. Whilst the site is 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.
14. The evidential burden lies with the appellant and taking everything into account, the information before me is sufficient to demonstrate to me that on

the balance of probabilities the building was used for agriculture for the purposes of a trade or business as part of an established agricultural unit on 20 March 2013, despite not being in use. I, therefore, conclude that the criteria under Paragraph Q(a) are satisfied and permitted development rights apply to the site.

Other Matters

15. The appeal site is located within the River Lugg catchment which forms part of the River Wye SAC. It is recognised by the Conservation of Habitats and Species Regulations 2017 (the Act) as an area of international importance for its flora and fauna.
16. Paragraph 3.(1) of the GDPO states that permitted development granted under its provisions is subject to the Act and cannot be lawfully begun until the developer has made a Regulation 77 application and the local planning authority is satisfied that the development would have no adverse effect on the integrity of the habitats site. A Regulation 77 application is a matter for the main parties to address outside of this appeal before the development starts. As such, it is not a matter for me in consideration of this appeal.
17. I note that representations made by local residents in respect of land contamination caused by an anthrax infected cattle corpse buried near the site. However, there is no suggestion that the proposed development would interfere with the corpse. Based on the evidence before me and the advice of the Council's Environmental Health Officer I am satisfied that it would not pose a threat to human health.
18. Whilst buildings used for the keeping of goats and the storage of hay and straw neighbour the proposed development there is nothing to suggest that the residential activities taking place on the site would disturb animals or pose a fire risk. As such, I find that in this regard the proposed development would be acceptable.
19. I acknowledge that the proposed development would be sited close to neighbouring dwellings, but given the existing spatial relationship I am satisfied that it would not result in conditions that would unduly affect the living conditions of occupiers by reason of overlooking.
20. There is no substantive evidence that the proposed development would increase the risk of flooding in the area or adversely affect local habitats or wildlife.
21. I note the concerns raised by local residents regarding the access. However, taking into account the advice of the Highways Officer, I am satisfied that access could be provided and would not prejudice highway safety. Given the scale of the development it is unlikely that construction traffic would damage local roads or result in disruption to local residents.
22. A local resident contends that the proposed development would have a harmful effect on Woodhouse Farm, as a heritage asset. However, based on the information before me, I cannot come to the same conclusion. As such, I give this matter negligible weight in coming to my decision.
23. A number of comments were made by third parties in relation to the emerging Neighbourhood Plan; other planning applications in the area; services in the

village and the character of the area. The GPDO grants planning permission within specified parameters. None of the points raised affect whether the appeal proposal is permitted development under the GPDO.

24. I note the comments made by local residents in relation to the condition of the building. The application has been supported by a structural report and detailed plans. The Council consider that the building is of substantial construction and the works proposed would fall within the parameters of Class Q(a). I have no reason to disagree with the Council's conclusion and there is no credible evidence that would lead me to take a different view.

Conclusion

25. For the reasons set out above the appeal succeeds and prior approval is granted.

B Thandi

INSPECTOR