



Appeal Decision

Site visit made on 14 February 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2022

Appeal Ref: APP/W1850/W/21/3281051

Drakeley Farmstead, Marden, Hereford, Herefordshire HR1 3ES

- 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 S&A Property Limited against the decision of Herefordshire Council.
 - The application Ref 211247, dated 24 March 2021, was refused by notice dated 4 June 2021.
 - The development proposed is Prior Notification Application (Class Q) for the residential change of use and conversion of an existing agricultural building, known as 'The Old Dairy' to form a single dwelling at Drakeley Farm, Marden.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by S&A Property Limited against Herefordshire Council. This is a matter the subject of a separate decision.

Preliminary Matters

3. An Amended Plan has been submitted that shows the small lean-to as being demolished rather than converted. It is not the role of an appeal to evolve a proposal. Nonetheless, the amended plan has not materially changed the substance of the proposal and would not prejudice any party. Consequently, I have dealt with the appeal on the basis of the amended plan.
4. This appeal relates to Schedule 2, Part 3, Class Q of the GPDO. Class Q (a) permits 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 Class C3 use (dwellinghouse). This provision also includes, at (b) any building operations reasonably necessary to convert the building. The proposal includes development subject to both criteria.
5. It is disputed between parties that the barn was in agricultural use on 20 March 2013, or was last in use for this, as required by paragraph Q.1.(a) of the GPDO.
6. It is also contested whether the barn has been subject to extension or alteration and whether the scheme only proposes works that are reasonably necessary for the conversion to take place. Class Q, paragraph Q.1(g) requires the building to not have been subject to extension or alteration works granted

by Classes A(a) or Class B(a) of Part 6 of Schedule 2 since 20 March 2013. Furthermore, paragraph Q.1(i)(i) enables the creation of windows, doors, roofs or external walls (aa) and water, drainage, electricity, gas or other services (bb) and other works that are deemed to be reasonably necessary for the building to function as a dwellinghouse.

7. The remaining limitations of paragraph Q.1 are not contested between main parties. Furthermore, it is not disputed that the proposal would accord with the conditions as set out by paragraph Q.2. I see no reason, in evidence, to disagree with the Council's conclusions on these other matters.

Main Issue

8. Consequently, the main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q.1(a), (g) and (i) of the GPDO.

Reasons

Extensions since 2013

9. The ariel photographs show that the building was in a consistent form within the subject years of 1999, 2006 and 2009. This clearly demonstrates the rear part of the building, identified as 'Part C' within the Appellant's structural surveys¹, on all three images. However, the 2016 ariel photograph does not show the rear lean-to which was presumably demolished sometime after 2009. A similar sized lean-to appears to have then been added after the 2016 image was captured. I am cognizant that the Appellant's photographs of 'Part C' show that this element includes some weathered materials. However, these may have been reused from the previous structure.
10. Consequently, the 2016 image casts substantial doubt as to whether this element of the building is a later addition to the structure, albeit in a similar position as the previous lean-to. Furthermore, it is unlikely that the variance between images can be explained as showing only minor repairs to the building. As such, based on the evidence before me, I find that the building has been subject to an extension after 2013.
11. Consequently, on the balance of probabilities, it appears that the building has been extended by development that would qualify under classes A(a) or B(a) of Part 6, schedule 2 of the GPDO. Accordingly, the proposal would not satisfy paragraph Q.1(g).

Agricultural use

12. The GPDO does not define 'agriculture' and thus the meaning set out in s336(1), of the 1990 Town and Country Planning Act applies. This refers to a range of activities including "horticulture, fruit growing, seed growing, dairy farming, and the breeding and keeping of livestock". Furthermore, Part 3, paragraph X of the GPDO defines an 'agricultural building' as "a building used for agriculture, and which is so used for the purposes of a trade or business". Therefore, to determine whether the building was in agricultural use, on or before 20 March 2013, is ultimately a matter for the decision maker, with much depending on the individual circumstances of the proposal and its context.

¹ Andrew Collinson March 2021 and Structural Engineers Cambridge Ltd July 2021

13. The Appellant's evidence includes sales particulars that note the building was 'possibly an old dairy'. Although, vague the details also show that the building clearly related to the surrounding farm holding. Furthermore, the aerial photographs show that this building has been associated with the farmhouse and surrounding farmland for a protracted period. The Council has not submitted any contradicting evidence to illustrate that the building has been severed from the main farmland or was subject to a material change of use.
14. During my visit I noted that the building included limited internal lighting. The rooms were rudimentary with space divided in a manner which was capable of being accommodated by livestock. There was no clear evidence that the building was used for anything other than storage or shelter due to its simple design and basic functionality. This indicates to me that the building could only be used for the storage of equipment, machinery or most likely livestock. Although not determinative by itself this evidence aligns with the structural survey and my own observations on site. These include evidence of features within the building of a central gulley for slurry drainage and a raised concrete feed trough.
15. Paragraph W(3)(b) of part 3, of the GPDO, allows a Council to refuse an application if a developer provides insufficient information to enable it to determine whether the proposed development complies with any conditions, limitations or restrictions. However, such a requirement must be directly and reasonably related to the matters in hand. In this case, the barn is located within a farm holding and has the characteristics of a farm building. The requirements of paragraph W does not require an agricultural use to be lawfully established or for the developer to show beyond all doubt that the building was in agricultural use. Consequently, the evidence submitted provides sufficiently robust information to show that the building was last used for agricultural purposes and no compelling evidence has been submitted by the Council to dissuade me of this view.
16. Consequently, on the balance of evidence before me, I am satisfied that the barn was last used for agricultural purposes, which took place before 20 March 2013. As such, the proposal would comply with paragraph Q.1(a).

Conversion or rebuild

17. Paragraph 105 of the Planning Practice Guidance states that the Class Q right assumes that the agricultural building is capable of functioning as a dwelling. It is therefore not the intention of Class Q to allow rebuilding work which would go beyond 'reasonably necessary'. The question of whether a proposal would be a conversion or rebuild is central to whether the barn is capable of conversion. Furthermore, a rebuild would not necessarily follow total demolition, it is instead a test of substance and planning judgement.
18. In this case, the barn would retain its concrete block walls that rest on a raft foundation. The Appellant's structural surveys found that whilst a new roof structure would be required, the majority of the building is structurally sound. The survey also identified that the small lean-to on the west side of the building was of lesser construction. The foundation of this section is limited, and it has damaged walls following the partial collapse of its lean-to roof. This element is now proposed for demolition, by virtue of the amended plans.

19. Although the Council has contested these findings, its concerns largely relate to the 'Part B' lean-to. The fire damage noted appears to be superficial and has not consequently affected the structural stability of the building. Therefore, based on the evidence before me, I find that the structural survey provides sufficient clarity to illustrate that the building, excluding the lean-to structure, is sound and capable of conversion.
20. As such, the proposal would only include works that would be reasonably necessary to carry out the building operations allowed and would therefore satisfy the requirements of paragraph Q.1(i)(i).

Conclusion

21. For the above reasons, the appeal is dismissed.

B Plenty

INSPECTOR