



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: 8 March 2022

Appeal Ref: APP/W1850/W/21/3280896

The Homelands, Hampton Charles, Tenbury Wells WR15 8PZ

- 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 Mrs Margaret Yarnold against the decision of Herefordshire Council.
 - The application Ref 211880, dated 3 May 2021, was refused by notice dated 1 July 2021.
 - The development proposed is Prior approval for a proposed change of use of an agricultural building to form one smaller dwellinghouse (Class C3) and for building operations reasonably necessary for the conversion.
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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, paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)(as amended) for the proposed change of use of an agricultural building to form one smaller dwellinghouse (Class C3) and for building operations reasonably necessary for the conversion at The Homelands, Hampton Charles, Tenbury Wells WR15 8PZ in accordance with the application Ref 211880 made on 3 May 2021, and the details submitted with it including the location plan and plan 'Yarnold 3a', pursuant to Article 3(1) and Schedule 2, Part 3, Class Q, paragraph Q.2(1).

Preliminary Matters

2. 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.
3. 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)(i) or (ii) of the GPDO.
4. 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

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

Reasons

6. 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.
7. The appellant explains that Homelands was farmed as part of Court Farm, which is still farmed, growing crops and keeping livestock. Barn B, the subject of this appeal was erected in the early 1970's to house cattle. At some point Homelands and its associated holding became severed from Court Farm. The Appellant then used the barn for a horticultural business which took place between 1997 and 2005. The horticultural use was also opened to the public as a nursery in 1998. The submitted plans show that the holding was relatively small but seems to be of sufficient size for a small horticultural business to operate. Also, the advertisement in evidence shows that the appellant's business, was selling plants in the village in 1999. I also note the order quote for a large polytunnel in 2010.
8. The appellant's evidence, whilst limited, provides some indication that a horticultural business operated from the barn in the years advanced by the appellant. Furthermore, the land adjacent to the barn includes growing beds and shows evidence of a horticultural enterprise. The subject barn is modern in design, consisting of profile metal cladding over a steel frame. It includes a mezzanine and four high level windows. The building has some lighting but otherwise has limited power points. During my visit the building was largely empty, although I noted the presence of various gardening related equipment and many trolleys for bedding plants.
9. There is no evidence from the appellant with respect to activity that took place within the barn after the business ceased in 2005. It is therefore unlikely that the building was in active agricultural use for the purpose of Class Q on 20 March 2013. However, the Council has also not provided evidence to show that a material change of use has taken place since that time. Although the Council refers to the barns use for a carpentry business, it has not shown any further evidence to justify this assertion, such as Council tax records or local advertisements. Furthermore, the Council has not identified that a material change of use has been granted or undertaken within the building that would extinguish the former agricultural use of the barn.
10. Consequently, it seems on the balance of probabilities, that the barn has remained largely vacant and underused since 2005 with limited use taking place within it over the intervening years. Without a material change of use having occurred it appears that the last lawful use of the barn was for horticulture in 2006 in connection with the adjacent horticultural use.

Therefore, based on the evidence before me, the barn was last in use before 2013 for agriculture. Accordingly, the proposal would be in accordance with the provisions of paragraph Q.1(a)(ii) of the GPDO.

Conditions

11. Paragraph Q.2.(3) states that development under Class Q is permitted subject to the condition that development must be completed within a period of three years starting with the prior approval date. Further standard conditions are set out in paragraph W.(12) requiring development to be undertaken in accordance with the approved plans whilst paragraph W.(13) provides for additional conditions to be attached that are reasonably related to the subject matter of the prior approval. As such, the informative note requested by the Council is not directly related to a limitation or condition of Class Q and therefore would not be necessary.

Conclusion

12. For the above reasons, the appeal is allowed, and Prior Approval granted.

B Plenty

INSPECTOR