



Appeal Decision

Site visit made on 22 March 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2022

Appeal Ref: APP/C1625/W/21/3284309

Corner Farm, 41648 The Street to Bus Street, North Nibley GL11 6DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr B Sellers against the decision of Stroud District Council.
 - The application Ref S.21/1462/P3Q, dated 7 June 2021, was refused by notice dated 21 July 2021.
 - The development proposed is the conversion of agricultural building to form 1no. dwelling and associated building operations.
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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 1, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the conversion of agricultural building to form 1no. dwelling and associated building operations at Corner Farm, North Nibley, GL11 6DQ in accordance with the application S.21/1462/P3Q dated 7 July 2021, and the details submitted with it, subject to the condition detailed below;
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 01-A Site Location Plan, 05-A Proposed Site Plan, 006A Proposed Elevations and 007A Proposed Floor Plan.

Preliminary Matters

2. No description of development is provided on the application form. I have therefore taken the description from the Council's decision notice which is that used by the appellant on the appeal form. This accurately describes the appeal scheme according to both main parties. I have proceeded on this basis.

Main Issues

3. Class Q (a) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits the 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. Class Q (b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a).
4. Where development is proposed under Class Q(a) together with Class Q(b), and found to comply with the description permitted development, it is subject to the condition under paragraph Q.2(1) that before beginning the

development, an application must be made to the Local Planning Authority for a determination as to whether the prior approval will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building. The Council has not raised objections in regard to these matters and, on the basis of the evidence before me, I have no reason to disagree.

5. The Council considers that the appeal site and building was not used solely for an agricultural use as part of an established agricultural unit as required under Q.1(a), and that consequently the appeal proposal would not comply with the description of permitted development. Whether or not this was the case is the main issue in this appeal.

Reasons

6. Paragraph Q.1.(a) of the GPDO states that development is not permitted by Class Q if the site was not solely for an agricultural use as part of an established agricultural unit on 20th March 2013 or in the case of a building which was in use before that date but was not in use on that date, when it was last in use.
7. Planning history indicates that the site had previously been granted permission¹ for the change of use of the appeal building to a dwelling, however this has expired and was not implemented. The appellant has asserted that the Council did not dispute the agricultural use of the building during the consideration of this application. However, the Council maintain that concerns raised by interested parties challenges the status of the building as at the dates required by the GPDO. I note however, that no evidence has been provided to substantiate this concern.
8. A statutory declaration from the previous owner indicates that agricultural activity in the form of storage of equipment and tools for the purpose of land management and vegetable growing was undertaken between 1961 and 2017. Additionally, the Council, in their determination of the 2015 application for the change of use describe the building as a barn and farm outbuilding. Whilst the structural survey appeared to detail the storage of a bicycle, this is unclear, and in any event, I do not consider that a bicycle being located in a barn is clear evidence that it was not in agricultural use at the required date. During my site visit I noted that the building was being used for the storage of a mower, tools, and timber.
9. No agricultural activities have been observed by the Council. Nonetheless, the barn has an overtly agricultural appearance. There is no compelling evidence, including planning permissions, that any other use of the barn has commenced. In the absence of this and on the balance of probabilities, it is my judgement that the building was last in use for agricultural purposes as part of an agricultural holding. Even if it was not in use on the relevant date, there is nothing to indicate that the agricultural use has been replaced by another. I therefore conclude that criterion Q1(a) is satisfied.

¹ S.15/1565/FUL permission granted 17 September 2015

Other Matters

10. The appeal site lies within the Severn Estuary Special Protections Area (SPA), Special Area of Conservation (SAC) and RAMSAR zone of influence. The SPA is noted as an important area for the overwintering of populations of several birds including Bewick's swan, Waterfowl, Wildfowl, Widgeon, and Curlew. However, the proximity of the SPA to Bristol and Cardiff is such that Natural England considers recreational disturbance to be the most significant threat to the SPA.
11. The appeal proposal would result in a net increase of one dwelling with a consequent increase in residents living within 7.7km of the SPA. This would be likely, in turn, to increase recreational pressure upon the SPA such as, but not limited to, dog walking and recreational walking, leading to increased disturbance of overwintering species and other species supported within the SPA. It is therefore likely that the proposal, taken both in isolation and cumulatively, would have a significant adverse effect on the integrity of the SPA and, as the competent authority, it is necessary for me to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SPA.
12. The Council, in conjunction with Natural England, have developed a mitigation strategy² which sets out the approach to avoiding or mitigating significant effects on the SPA by securing a financial contribution towards suitable mitigation. The parties have, since the Council's determination of the application, agreed a financial contribution in accordance with the Council's mitigation strategy. A unilateral undertaking has been completed which details payment of the required level of contribution to the Council. I am therefore satisfied that the proposal would not adversely affect the integrity of the SPA.

Conditions

13. Any prior approval and planning permission granted for the development under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO is subject to the condition under Q.2 (3) which specifies that the development shall be completed within a period of 3 years starting with the prior approval date. I have had regard to the conditions suggested by the Council and have attached a condition relating to the approved drawings in the interest of clarity.

Conclusion

14. For the reasons given, the appeal is allowed, and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class Q (a) and (b) of the GPDO.

Tamsin Law

INSPECTOR

² Strategy for Avoidance of Likely Significant Adverse Effects on the Severn Estuary SAC, SPA and Ramsar Site