



Appeal Decision

Site visit made on 24 August 2022

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st August 2022

Appeal Ref: APP/C1570/W/21/3282677

Poultry Building, Woodhams Farm, Cutlers Green, Thaxted CM6 2RH

- 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 (as amended).
 - The appeal is made by Mr Stuart Brock against the decision of Uttlesford District Council.
 - The application Ref UTT/21/0259/PAQ3, dated 25 January 2021, was refused by notice dated 22 March 2021.
 - The development proposed is 'conversion of agricultural building into single dwelling.'
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the conversion of agricultural building into single dwelling at Poultry Building, Woodhams Farm, Cutlers Green, Thaxted, CM6 2RH in accordance with the terms of the application Ref UTT/21/0259/PAQ3, dated 25 January 2021, and subject to the standard conditions set out by paragraphs Q.2 (3) and W (12) of the GPDO.

Applications for Costs

2. An application for the award of costs was made by Mr Stuart Brock against Uttlesford District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Paragraph W (11) (c) of the GPDO sets out, in regard to development permitted by Part 3, that it must not begin before the occurrence of, amongst other things, the expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
4. The decision notice is dated 22 March 2021, 56 days after the date shown on the application form, 25 January. The appeal form however states that the application was dated 27 January, presumably when it was actually deposited to the Council. This would give a 56 day date of 24 March. This tallies with 'expiry date' on the delegated report.
5. The appellant's agent contacted the Council on 29 March. That communication notes the outcome of the application but also that they, on the now appellant's behalf, had not been notified. I note the wording of Paragraph W in this

regard. In the absence of a statement from the Council or confirmation from the appellant themselves, I cannot be certain there was not a notification from the former prior to or on the 56 day date, putting aside the date on the delegated report and the decision notice. The appellant's agent refers to publication on the Council's website but, and in this case I agree with my colleagues findings in 3131672¹, this falls short of 'notifying' the applicant directly or indeed that the applicant has 'received' any electronic communication in the words of Article 2, Paragraph 9 of the GPDO.

6. The appellant argues therefore that the applicant is free to develop the building in accordance with the proposals. I disagree. In order for the development in this case to be permitted by Class Q, the proposals must fall within the description of what is permitted thereby, rather than anything outside thereof. The provisions of paragraph W (11) (c) are only engaged as a condition of development being permitted by Part 3 in the first instance which, in the case of the appeal scheme, there is contention between the main parties as to whether this is the case.
7. This is where the circumstances of this appeal diverge from those before my colleague in 3131672. In that case, there was no dispute between the main parties that the proposal accorded with the description of permitted development. Putting aside some remaining ambiguity as I have set it out above, and in regard to the particular circumstances of this case, any failure of the Council to 'notify' the appellant within 56 days of their application would not, in and of itself, lead me to allowing the appeal.

Main Issue

8. With the above and the evidence of the main parties in mind, the main issue is whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, with specific regard to the sustainability of its location and the setting of a listed building and paragraph Q.2 (1) (e) of the GPDO.

Reasons

9. Paragraph 109 of Planning Practice Guidance (PPG) sets out what is meant by impractical or undesirable which is not defined by the GPDO. A reasonable and ordinary dictionary meaning should be applied to make a judgement. Impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable".
10. When considering whether it is appropriate for the change of use to take place in a particular location, one should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval. Indeed, the vast majority, or at the very least a significant number, of agricultural buildings will be in locations where it might be considered 'locationally unsustainable', for the erection of new dwellings in accordance with both the Framework and Councils' settlement or spatial strategies.

¹ APP/K0235/W/15/3131672 Plantation Farm, Church Hill, Ravensden, Bedford, Bedfordshire, MK44 2RL

11. There may be circumstances where the impact cannot be mitigated. Therefore, when looking at location, an agricultural building on the top of a hill with no road access, power source or other services might be impractical for conversion. Additionally, the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.
12. The reasons for refusal also refer to paragraph W (10) (b) of the GPDO and its reference to having regard to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval, as if the application were a planning application. This does not require regard to the Framework as a whole, only insofar as it is relevant to the subject matter of the prior approval. So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant.
13. In this case, the subject matter concerns a change of use of an agricultural building to a dwelling and whilst the order does mention treating these matters as though they were a planning application. This means in having regard to the Framework. Not the submission itself. Indeed, paragraph 028 of PPG sets out, amongst other things, that prior approval is a light-touch process, and it is important that a local planning authority does not seek to replicate the planning application system.
14. Paragraph Q.1 explains that development is not permitted if, amongst other things, the building is a listed building (m). In the case of the appeal building, it does appear to be in the curtilage of a listed building, but it is not itself listed. S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the duty to, in considering whether to grant planning permission for development which affects a listed building or its setting, have regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The duty is not directly relevant for prior approval applications because planning permission is granted by Article 3(1) of the GPDO.
15. Where the prior approval matters include amenity, siting or location, or design and external appearance, the impact of a development on the setting of a listed building will need to be taken into account. However, and in regard to paragraph Q.2 (1) (f) of the GPDO, the design and external appearance of the building are considered acceptable by the Council, explaining as they have that the buildings as residentially converted would not change significantly in terms of appearance compared to what is there currently. The conversion would change the windows and roof and introduce new door openings. I have no compelling evidence to the contrary and can only take from the Council's case therefore that with no significant change has to come no specific degree of harm.

Conditions

16. The Council have not suggested any conditions and, having regard to their findings on other prior approval matters, I have no reason to disagree. Prior approval is nonetheless granted subject to the conditions set out by paragraphs Q.2 (3) and W (12) of the GPDO.

Conclusion

17. For the reasons I have set out above, the proposed development would accord with the prior approval matters of Class Q. Specifically, and in regard to the main issues of the case, the location or siting of the building would not be otherwise impractical or undesirable for it to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Subject to the aforementioned standard conditions therefore, the appeal is allowed.

John Morrison

INSPECTOR