



Appeal Decision

Site visit made on 26 August 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2022

Appeal Ref: APP/L2630/W/21/3277931

Barn at Windmill Farm, Windmill Lane, Costessey NR8 5ED

- 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 GPDO).
 - The appeal is made by Mr N Bridge against the decision of South Norfolk District Council.
 - The application Ref 2021/0330, dated 12 February 2021, was refused by notice dated 9 April 2021.
 - The development proposed is change of use and associated building works of an agricultural building to a dwellinghouse (QA and QB).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the description of development from that given on the appeal form, this more accurately describes the proposal than the description given on the application form.

Background

3. Class Q of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses)¹ (Class Q(a)) together with any building operations reasonably necessary to convert the building (Class Q(b)).
4. Should the development fall under Class Q, Paragraph Q.1. sets out limitations to the permitted development right. If the proposal is found to accord with Paragraph Q.1., it is necessary to go on to consider Paragraph Q.2.(1) which lists conditions under which the developer must apply to the local planning authority for a determination as to whether prior approval will be required as to the impacts of the development.
5. The Council gave four reasons for refusal. The first is that the building cannot be considered to be in agricultural use, contrary to Paragraph Q(a). The second reason states that the works required to convert the building would go beyond those which would be reasonably necessary for the building to function as a dwellinghouse, and thus would fail to satisfy the requirements of Paragraph Q.1.(i). The third reason for refusal states that the curtilage proposed to serve the dwelling would exceed the size of the building to be converted, contrary to the requirements of Schedule 2, Part 3, Paragraph X of the GPDO.

¹ of the Schedule to SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended.

6. For these reasons, the Council contends the proposal would not be permitted development. Nonetheless, the Council proceeded to determine if prior approval would be required and should be given, and further refused the proposal on the basis that the proximity of the building to livestock sheds would lead to noise, flies and odour that would adversely affect the amenity of future occupants, making it undesirable to change from agricultural use.

Main Issues

7. Therefore, the main issues are, firstly, whether the proposed change of use would be permitted development under Class Q, in particular with respect to the requirements of Paragraphs Q.1.(a) and (i) and Paragraph X, and if so, whether prior approval should be granted, in particular with respect to whether the location of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use as a dwellinghouse.

Reasons

Whether permitted development

8. Paragraph Q.1 sets out limitations to the Class Q right. Development is not permitted under paragraph Q.1(a) if the site was not used solely for an agricultural use as part of an established agricultural unit either (i) on 20 March 2013, (ii) in the case of a building which was in use before that date, but not on that date, when it was last in use, or (iii) in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins (emphasis added).
9. Based on the evidence before me, it is not argued by the appellant that the proposal would fall under criterion (ii) or (iii). Therefore, the relevant criterion is (i) and the relevant date for the purposes of this appeal is 20 March 2013.
10. Schedule 2, Part 3, Paragraph X of the GPDO sets out the interpretation of certain terms used within Part 3 of the Order, which includes Class Q. "Agricultural building" is defined as meaning a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business, with "agricultural use" stated as referring to such uses. As such, the requirement in Paragraph Q.1(a) for the site to have been used solely for an agricultural use would require some substantive evidence of the use being in connection with a trade or business, and on the relevant date.
11. The Council contends that the building in question has been referred to as 'stables' in various documents from the appellant from the pre-planning stage through to the application itself. It points to the division of the building into individual stables and photographs appearing to show horse collars hanging within the building.
12. The appellant in response argues that 'stables' is only an identifying name for the building and does not denote its use. Rather, it is stated that the building has been used as a piggery prior to the relevant date of 20 March 2013, with various satellite images provided showing the building in place on the land. The appellant further provides records of herd registers for cattle and livestock sales of pigs, goats and cattle, which it is contended demonstrates agricultural use of the land. The herd records submitted date between 2013 and 2019, while the sales invoices date between 2013 and 2016.

13. I accept that the appellant's evidence indicates that agricultural use has occurred on the wider farm site. However, the sales records and herd registers, with the exception of a single date in 2012, relate to dates *after* the relevant date of 20 March 2013, and so do not offer clear evidence that the site was in agricultural use on or before the relevant date.
14. Similarly, satellite images of the site do no more than show the building existing prior to 20 March 2013, but are not evidence of how it was used. Neither do photographs of the building as it presently exists demonstrate use on the relevant date.
15. On site, there was no livestock present or visible. The building itself appeared more akin to a piggery than a horse stable given the presence of muck on the ground and some empty bags of pig feed. Elsewhere on the site were larger stables which could be used for various animals. I saw paraphernalia in another barn which appeared related to horses, including several saddles. Overall, there appeared to be elements of both agricultural and equestrian use on the site, though my observations were not conclusive. However, they do not provide any tangible support for the appellant's position as to the use of the site on the relevant date.
16. The Council's evidence is not conclusive either, as reference to the building as a stable is not, in itself, proof of how it was or is used, though the presence of equine-related equipment on site lends some credence to the Council's view that horses are or have been kept on the land to some extent. What the Council's evidence does not do is demonstrate clearly that horses were being kept on site on the relevant date, or that they were kept to the extent that a material change of use from agriculture occurred, but it does add uncertainty over the use of the site over time.
17. Ultimately, it is for the appellant to demonstrate that the proposal meets with the requirements of the GPDO. On the totality of evidence before me, I am not persuaded that the site was solely in agricultural use either on or before the relevant date of 20 March 2013. Consequently, I find that the proposal does not meet the requirements of Paragraph Q.1(a) of Class Q, and therefore is not permitted development.

Other limitations and prior approval matters

18. As a consequence of my findings above, it is not necessary for me to go on to consider whether the proposal would be permitted development under Paragraph Q.1.(i) or whether it would meet the requirements of Paragraph X or the relevant prior approval matters as, even if they were met, this would not alter the outcome of the appeal.

Conclusion

19. For the reasons given, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Therefore, the appeal should be dismissed.

K Savage

INSPECTOR