



Appeal Decision

Site visit made on 10 May 2022

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2022

Appeal Ref: APP/C1625/W/21/3289996

**HALMORE MILL, 41402 LANE TO SEWAGE WORKS, DURSLEY,
GLOUCESTERSHIRE, GL11 5DW**

- 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 Mr Geoff Vatcher against the decision of Stroud District Council.
 - The application Ref S.21/1281/P3Q, dated 17 May 2021, was refused by notice dated 1 July 2021.
 - The development proposed is Change of use of an agricultural building to two dwellings (Class Q) (revised submission following determination of application S.19/1183/P3Q).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Geoff Vatcher against the Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of (a) a 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), and (b) development referred to in (a) together with building operations reasonably necessary to convert the building.
4. Schedule 2, Part 3, Paragraph X of the GPDO states that for the purposes of Class Q curtilage means (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.
5. In this case, the Council considered that the areas shown on the original plans as immediately beside the building and proposed to be used for residential purposes in association with the proposed dwellings are larger than the overall footprint of the building. The appellant's statement suggests that the appellant appears to be in agreement with this.
6. The plans submitted with the application indicate an area of land surrounding the building which appears to be in domestic use as suggested by the depiction

of parked cars and bin stores. This area appears to be larger than the footprint of the building.

7. However, I have received amended plans which suggest that a smaller curtilage could be provided in order to ensure that the requirements of the GPDO would be met. On the basis of the evidence before me I have no reason to doubt that this is indeed the case. Consequently, were I minded to allow the appeal, I consider that this matter could be addressed through the use of a suitably worded planning condition requiring the submission of a plan detailing an area of curtilage which would meet the requirements of the GPDO.

Background and Main Issues

8. Paragraph Q.1(a) of the GPDO states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on the 20 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.
9. Additionally, paragraph Q.1(g) of the GPDO states that development is not permitted by Class Q if the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.
10. If the proposal is found to be permitted under Class Q (a) and Class Q (b), paragraph Q.2(1) of the GPDO requires a further determination as to whether prior approval is required as to : (a) the transport and highways impacts of the development, (b) noise impacts of the development, (c) contamination risks on the site, (d) flooding risks on the site, (e) 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 and (f) the design or external appearance of the building.
11. On the basis of the submitted evidence and the Council's reasons for refusal, the main issues in this appeal are:
 - whether the proposed development would be considered permitted development under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO, with particular regard to whether the buildings meet the requirements of paragraph Q.1(a) and Q.1(g); and if so
 - whether or not sufficient information has been provided to adequately assess the contamination risks at the site;
 - whether the location or siting of the buildings make it otherwise impractical or undesirable for the buildings to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order in terms of the effect of the proposal on biodiversity.

Reasons

Class Q.1 (a)

12. 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. The 'site' is defined as the building and any land within its curtilage.

An 'established agricultural unit' is defined in Paragraph X as agricultural land occupied as a unit for the purposes of agriculture.

13. The appeal building is a single storey agricultural barn which, at the time of my site visit, appeared to be in use for storage but also contained some hay and evidence of animal excrement.
14. There is some dispute between the parties as to whether the 'site' (i.e the building and its curtilage) was in use for the purposes of agriculture on 20 March 2013. The appellant, in a signed affidavit states that on 20 March 2013 the building was solely in use for the purposes of agriculture comprising the sheltering of pregnant ewes and lambs born on the holding, providing cover for the shearing of adult sheep kept on the holding and for the dry storage of winter hay that was used for the sheep. However, the evidence before me is limited in this regard and no photographs or additional evidence has been provided in support of the appellant's affidavit. Furthermore, the definition of an agricultural building sets out that it should be so used for the purposes of a trade or a business. I have not been provided with compelling evidence which confirms that the aforementioned use was indeed for the purposes of a trade or business.
15. There is also some dispute between the parties as to whether a different, non-agricultural, use of the building has since been implemented. The affidavit also states that in more recent times part of the building has been used as a stable for the appellant's own horse(s). Though the use of land as grazing land, including for horses, does fall within the meaning of 'agriculture' as set out in s336(1) of the Town and Country Planning Act 1990, the keeping of horses where it involves activities other than putting them out to graze does not. Furthermore, the affidavit states that the use is for the appellant's own horse(s) and as such, I consider that the current use of this building, or part of it, does not meet the definition of an agricultural building set out in paragraph X as it is not used for the purposes of a trade or business but rather for the appellant's personal use. As such, there is significant doubt as to whether the lawful use of the building, or part of it, has changed and is no longer an agricultural building.
16. Consequently, for the reasons set out above I am not wholly satisfied that I can conclude with certainty that the site was in agricultural use on 20 March 2013 or is still, indeed, in use as an agricultural building.
17. Furthermore, at the time of my site visit I observed evidence to suggest that part of the site was in use for caravanning/camping activity. The evidence before me also suggests that this is the case and that the land is used as a certified camping site. In my view, such a use is not one that could be regarded as ordinarily and reasonably incidental to agriculture.
18. The Council suggest that this use has been occurring since at least 2011 and possibly since around 2006. The caravanning/camping area is in close proximity to the barn which is the subject of this proposal. The appellant does not dispute that the wider site is in such use. However, the appellant holds that the 'site' in this case excludes this area of the wider holding.
19. Even if I were to find that the site itself excludes the fields used for caravanning/camping and was solely in agricultural use at the appropriate time Q.1 (a) goes on to say that the site must have been used as part of an

established agricultural unit (my emphasis). As the appellant points out the 'planning unit' can indeed differ from the 'agricultural unit'. However, in this instance I have not been provided with evidence which indicates that, were the fields associated with caravanning/camping excluded, the barn is part of an alternative established agricultural unit.

20. The evidence I have been provided casts significant doubt and as such, in my view, I cannot be certain on the basis of the evidence before me that the site was used solely for an agricultural use as part of an established agricultural unit. The proposal, therefore, fails to comply with the provisions of Q.1(a) of the GPDO. Accordingly, it does not constitute permitted development.

Class Q.1 (g)

21. The Council have expressed concern that, due to a potential alteration to ground levels, the external dimensions of the building would be likely to extend beyond the external dimensions of the existing building and have included this as a reason for refusal. However, I have been provided with limited further evidence in this regard.
22. The submitted plans and the evidence before me, including my observations on site, suggest that the proposed building would follow the same footprint and external dimensions as the existing barn and lean to. Despite the Council's concern there is nothing before me to indicate otherwise. Consequently, I consider that the proposal would comply with the provisions of Q.1(g) of the GPDO in this regard.

Whether or not sufficient information has been provided to adequately assess the contamination risks at the site; and 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)

23. As I have concluded that the proposed development is not permitted under Class Q, it is not necessary for me to consider the further issues in terms of the criteria contained within Q.2(1) (c) and (e) of the GPDO as part of this appeal.

Other Matters

24. A number of concerns around the handling of the application by the Council have been raised by the appellant. Some of these concerns are discussed as part of the separate Costs Decision. However, issues such as these do not have direct implications on the planning merits of this appeal and must be pursued through the Council's own complaints process.
25. I note the existence of planning application reference S.19/1183/P3Q which was inadvertently approved by the Council by mistake when, both parties agree, the intention was to refuse the application. Though the appellant's evidence indicates that this permission was extant at the time the appeal was lodged it would seem to me that, given an absence of any evidence to the contrary, given the date of the approval (August 2019) this permission would now have expired as per the limitations set out in paragraph Q.2(3) of the GPDO. In any event, the parties also appear to be in agreement that should the appellant had continued with the conversion under this application as originally submitted the proposal would be taken outside of the scope of Class Q. Nevertheless this matter has no bearing on my consideration as to whether or not the proposal constitutes permitted development.

Conclusion

26. For the reasons given above I conclude that the proposal is not permitted development and that the appeal should be dismissed.

L J O'Brien

INSPECTOR