



Appeal Decision

Site visit made on 10 July 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Appeal Ref: APP/P1560/W/22/3312267

Apple Blossom Paddocks, Brightlingsea Road, Thorrington CO7 8JL

- 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 (as amended) (GPDO).
 - The appeal is made by Ms Karen Pawsey against the decision of Tendring District Council.
 - The application Ref 22/01499/COUNOT, dated 8 September 2022, was refused by notice dated 24 November 2022.
 - The development proposed is change of use of a building from agricultural to one residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form did not include a description of the proposed development. Consequently, the description in the banner header above has been taken from the appeal form, with superfluous wording removed.
3. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (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) or (b) development referred to in (a) together with building operations reasonably necessary to convert the building referred to in (a) to a Class C3 (dwellinghouse) use. The appeal relates to development under both Q(a) and Q(b), so that the proposal relates to the change of use to residential as well as associated facilitating works.
4. Where an application is made as to whether prior approval is required for development under Class Q, paragraph W(3) of Part 3 of the GPDO states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified as being applicable to the development in question.
5. 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 - (i) on 20 March 2013, or (ii) 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, 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. Paragraph X of Part 3 of the GPDO states that 'site' means the building and any land within its curtilage.

6. The Council assert that insufficient evidence has been provided to confirm that the building has been in situ for at least 10 years before the date development under Class Q would begin. As a result, the Council do not consider that the proposal would comply with Class Q.1(a)(iii) of the GPDO as the building, which was brought into use after 20 March 2013, has not been in use for a period of at least 10 years before the date development under Class Q begins.

Main Issue

7. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO with regard to paragraph Q.1(a).

Reasons

8. The appellant asserts that the building which they refer to as stables/barn has been on site since 2009 and is in use for agricultural purposes. An aerial photograph dated 1 January 2009 is provided by the appellant which shows a building on the site at that point in time. The agricultural/horticultural business use is identified by the appellant as commencing in 1997, when it was known as Harrodene Nurseries. The appellant confirms that the stables/barn was extended in 2020.
9. The Council has queried in its Officer Report, whether the appeal site is in agricultural use. The appellant has stated that the land is now used for the keeping of livestock as well as providing a home for a horse and a pony who graze the area and therefore the site remains agricultural in use.
10. The building subject of the appeal comprises of two main elements. A range of timber framed and timber clad stable buildings make up the rear section of the building. These were being used for the housing of a small number of animals at the time of my site visit. The front section of the building is also a timber framed structure with a mixture of materials used to clad it including corrugated metal sheeting, garage doors and timber. This element was used for the storage of a small amount of building materials and equipment that could reasonably be described as being used to maintain the buildings and ensure care of the animals.
11. The wall that makes up the southwestern side elevation is continuous across both the front and rear sections. A relatively small part of the roof of the front section overlapped the roof of the rear section slightly providing a roof covering across both the front and rear section towards the southwestern end. However, I witnessed a substantial gap between the roofs along the remaining length of the front and rear sections. Whilst therefore I recognise that some parts of the front section were attached to the rear section, the front section did largely appear to be a separate structure to the rear section.
12. Based on the evidence before me including the submitted aerial photography and my observations during the site visit, the building subject to this appeal has been extended since 2020. The extent of the front extension in terms of the footprint added to the building is significant in comparison to what appears to be the size of the rear section.

13. I therefore find that the extension carried out since 2020 is so extensive that it would amount to a new building. As a result, the development proposed would not comply with Class Q.1(a)(iii) as the building was brought into use after 20 March 2013 and has not been in use for a period of at least 10 years before the date development under Class Q begins.
14. Given my conclusion that the proposal would not be permitted development under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required, as it would not alter the outcome of the appeal.

Other Matters

15. The appellant has referred me to the construction of a bungalow and two other buildings at a neighbouring site. The Council has confirmed that these other developments referred to relate to a planning application and a lawful development certificate and not an application for prior approval. Nevertheless, there is very limited information before me on these other cases and the circumstances of another case would not alter whether the appeal proposal would comply with the requirements of the GPDO.
16. The ability of the appellant to reside on site in order to care for the animals and ensure the security of the land and the more limited number of vehicles using the lane compared with the previous use are raised. Whilst I understand the proposal would benefit the appellant for the reasons set out, these are considerations I am unable to take into account when assessing whether the proposal would be permitted development under the requirements of the GPDO.
17. Several comments were made by interested parties in relation to the application, including a number in support of the proposal. These comments included that the proposal would improve the appearance of the site, would enhance the security of the site and help to prevent vandalism and that there would be no additional traffic as a result of the scheme. The GPDO however grants planning permission within specified parameters, and none of these points affect whether the appeal proposal is permitted development under the GPDO.

Conclusion

18. The proposed conversion would not satisfy the requirements of Schedule 2 Part 3 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and therefore is not development permitted by it. For the reasons given above and having considered all other matters raised, the appeal is dismissed.

G Dring

INSPECTOR