



Appeal Decision

Site visit made on 28 July 2023

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2023

Appeal Ref: APP/C1625/W/23/3315117

Barns at Ashcroft, Ashmead Green, Cam, Dursley GL11 5HJ

- 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 & Mrs J Randall against the decision of Stroud District Council.
 - The application Ref S.22/1827/P3Q, dated 11 August 2022, was refused by notice dated 5 October 2022.
 - The development proposed is described as 'Conversion of an agricultural barn to a single dwelling house (C3). Includes the demolition of two attached lean-to structures'.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of an agricultural barn to a single dwelling house (C3), including the demolition of two attached lean-to structures, at Barns at Ashcroft, Ashmead Green, Cam, Dursley, GL11 5HJ in accordance with the terms of the application, Ref S.22/1827/P3Q, dated 11 August 2022, and the plans submitted with it.

Preliminary Matters

2. The appeal proposal relates to a prior approval notification made under Article 3(1), Schedule 2, Class Q, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO).
3. Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issue

4. The main issue is whether the proposal would be permitted development, with particular regard to the requirements of Section Q.1(g) of Schedule 2, Part 3, Class Q of the Order.
5. There is no dispute between the main parties that the other criteria of Class Q are satisfied, and I have no reason to conclude otherwise. Consequently, there is no need to give them further consideration in this decision.

Reasons

6. The appeal relates to an agricultural barn on the outskirts of Ashmead Green, that is proposed to be converted to a residential dwelling. Immediately to the north-west of the appeal site (on the same agricultural unit) lies an existing

sizeable steel frame structure. The structure consists of a steel frame only, with no walls, roof coverings or base/floor structure.

7. Section Q.1(g) of Class Q of the GPDO establishes that rights under Class Q cannot be exercised where works to erect, extend or alter a building for the purposes of agriculture via permitted development rights under class A(a) or Class B(b) of Schedule 2 Part 6 of the GPDO have been carried out on the established agricultural unit since 20 March 2013, or within 10 years before exercising the change to residential use, whichever is the lesser.
8. The Council indicates that the steel frame structure that lies adjacent to the appeal barn, is similar in scale and siting as an agricultural building for which prior approval (ref: S.13/2297/AGR) at the site had been sought in November 2013. Indeed, the appellant acknowledges that the steel frame of an agricultural building was erected following prior approval S.13/2297/AGR being granted by the Council.
9. The Council therefore asserts that the works that have been undertaken amount to development under Part 6 of the GPDO having been 'carried out'. In reaching this view, the Council highlights legal advice it received. The advice is essentially that whilst there are restrictions in other parts of the GPDO that require completion of development within a specific time-period this is not the case for development under Part 6. Furthermore, it is contended that had it been the intention that the restriction under Q.1(g) should only apply to completed buildings then the legislation would have been explicitly worded in this manner (e.g. through substituting the term 'carrying out' with 'completion of').
10. I do not dispute the Council's assertions that the term 'carried out' differs from 'completion' of development. However, it does not follow that the term 'carried out' equates to commencement of development or undertaking any works at the site. For example, other parts of the GPDO refer specifically to the commencement of development. Applying the same logic as the legal advice that the Council received, had it been the intention for restrictions under Q.1(g) to apply where development had commenced under Part 6, then it may be reasonably expected that the term 'has commenced' would have been used over 'carried out'.
11. There is no definition of the term 'carried out' within the GPDO. Likewise, it is not defined in the Town and Country Planning Act 1900 (as amended). Although, as indicated above, I am not convinced that the term is equivalent to commencement of development.
12. The appellant refers to an appeal decision¹ relating to a certificate of lawful development that considered the definition of 'carried out' in terms of Parts 6 and Part 7 of the GPDO. Whilst the context of that appeal decision differed to the scheme before me, the relevant issue remains consistent (i.e. whether development under the GPDO had been 'carried out').
13. In that appeal decision, the Inspector deemed that in the absence of any definitions in the GPDO, then the ordinary meaning of 'carried out' should be used, namely 'that something had been done'. I have no reason to dispute this, nor the notion that whether works have been 'carried out' is a matter of

¹ Appeal Reference: PP/G2245/X/11/2149931 – Land South of Puckden Wood, Chiddingstone Hoath, Edenbridge, Kent.

planning judgement, based upon the extent of works undertaken and the overall nature of the development proposal.

14. I have been provided with a copy of the plan/elevations that were considered as part of the prior approval S.13/2297/AGR. The drawings are of a rudimentary nature, and it is not entirely clear as to what the full extent of the works would entail (e.g. base structure, materials to be used etc). Nevertheless, given that the steel frame structure that has been erected adjacent to the appeal site contains no walls or roofing, I find that the building could not function for any agricultural purpose (e.g. storage of machinery, crops, livestock). As a matter of fact and degree, I find that the works undertaken are insufficient to maintain that the development sought under prior approval S.13/2297/AGR has been carried out.
15. Notwithstanding the above, where prior approval is deemed to be or expressly granted, the development is only lawful if it is begun subsequently, it is carried out in accordance with the submitted plans and it is in fact permitted development.
16. The appellant contends that the size of the steel frame that was erected on the site is not in accordance with the details of the building submitted with prior approval application S.13/2297/AGR (with the steel frame being notably larger). As such, it is argued that the prior approval procedure was not complied with and the development that has taken place on the adjacent land is therefore not permitted development under Part 6 of the GPDO. This has not been contested by the Council and from my observations and the evidence before me, I have no reason to dispute the appellant's claims.
17. Therefore, from the evidence before me, regardless of whether the works on the adjacent agricultural building are of a magnitude sufficient to constitute development that had been 'carried out', it does not entail development under Part 6 of the GPDO.
18. Consequently, I find that the proposal would comply with the requirements of Section Q.1(g) of Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

19. A third party has raised concerns about the precedent that the development may set and refers to at least three other applications that have been refused on the grounds of being outside the village envelope due to their effects on sustainability and highway issues.
20. I do not have details of those other cases and therefore cannot draw any comparisons, albeit each case should be determined upon its own merits. In this instance, the appeal relates to prior approval, the matters for consideration are those set out in the relevant paragraphs of the GPDO.
21. The purpose of Class Q of the GPDO is to increase the supply of housing through the conversion of agricultural buildings, which by definition will very frequently be in the open countryside. As such, the location of the development outside of the village boundary and its sustainability are not grounds in this instance to dismiss the appeal. There is also no robust evidence to suggest the proposal will cause harm to highway safety, whilst the Council has also not raised concern in this respect. My decision therefore does not turn on these matters.

Conditions

22. 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, as well as the provisions of paragraph W. It has not been necessary to impose any further conditions other than those specified in the GPDO.

Conclusion

23. For the reasons above the proposal is permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is therefore allowed and prior approval is granted.

Lewis Condé

INSPECTOR