



Appeal Decision

Site visit made on 18 July 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th October 2023

Appeal Ref: APP/N1730/W/23/3316026

Harewarren Farm, Chalky Lane, Dogmersfield, Hook, Hampshire RG27 8TG

- 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).
- The appeal is made by Mr & Mrs Wilkins against the decision of Hart District Council.
- The application Ref 22/02504/GPDAGD, dated 13 October 2022, was refused by notice dated 21 December 2022. The development proposed is the change of use of existing agricultural building (The Piggery) to form one two bed and one three bed dwellinghouses, together with building operations necessary to convert the building.

Decision

1. The appeal is dismissed.

Background

2. 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), development is permitted for the 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) together with building operations reasonably necessary to convert that building, subject to limitations and conditions.
3. The local planning authority (LPA) may refuse the application where it considers that the proposed development does not comply with, or that the developer has provided insufficient information to enable the LPA to establish whether the proposed development complies with the conditions, limitations or restrictions set out in paragraphs Q.1 and Q.2.
4. The application was refused on the basis that the proposal would not be permitted development, for two reasons. Firstly, that it fails to comply with the provisions of Paragraph Q.1(a), which provides that development is not permitted by Class Q if, amongst other things, the building was not used solely for an agricultural use as part of an established agricultural unit on 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. Secondly, that it fails to satisfy the requirements of Paragraph Q.1(b) in that the physical works to carry out the proposed change would go beyond the building operations reasonably necessary to convert the building.

Main Issues

5. In light of the above, the main issues are whether the proposal would comply with the requirements under Article 3(1), Schedule 2, Part 3, Class Q of the

GPDO, with particular reference to whether the building was used solely for an agricultural use as part of an established agricultural unit and the extent of the proposed building operations.

Reasons

Agricultural use

6. As set out above, Paragraph Q.1.(a) states that development is not permitted if the site was not used solely for an agricultural use as part of an established agricultural unit. In this context, 'established agricultural unit' is defined in Paragraph X as 'agricultural land occupied as a unit for the purposes of agriculture'.
7. The submitted prior approval notification form states that the building was in use on 20 March 2013 as an agricultural barn. The appellants have indicated that neither the building nor the land have been intensively used for agricultural purposes in recent years. While a timescale for the decline or cessation of agricultural use of the building has not been specified, it is clear from the site history and internal layout of the building that it was constructed for, and previously used as, a piggery in agricultural use or as a hobby agricultural use. Although this evidence merely demonstrates that the building has been in an agricultural use in the past, as the appellants point out, there is no requirement for the building to be currently in agricultural use. The building would still qualify for the permitted development right under Class Q if it was no longer used for agricultural purposes, provided it has not been used for any other purpose since ceasing to be used for agriculture.
8. At the time of my site visit, the building itself did not appear to be in active use and there was no sign of any alternative use. The building contained remnants of objects relating to its previous piggery use with the internal configuration consisting of a number of pens. There is no planning history regarding any change of use of the appeal building, with the building not forming part of the Certificate of Lawfulness issued by the Council in 2015 establishing that Harewarren Farm Cottage had been occupied in breach of an agricultural occupancy condition. Evidence from the Certificate of Lawfulness application in the form of the declarations is consistent with demonstrating that the building had been in agricultural use as part of an agricultural unit.
9. In the light of the evidence of an agricultural use of the building as part of an established agricultural holding, and the lack of evidence demonstrating any alternative use of the building, it has been demonstrated that the building has been used solely for agricultural purposes as part of an established agricultural unit. I therefore conclude that the proposal satisfies the requirements of Paragraph Q.1.(a) of Schedule 2, Part 3, Class Q of the GPDO, and is therefore permitted by it. Therefore, I am satisfied that in respect of paragraph Q.1 the only issue is in relation to criteria Q.1(i).

Building operations

10. The appeal building constitutes a block-built structure on a concrete slab with wooden roof joists and a corrugated clad roof. It is evident that a section of one of the end elevations is missing with the remainder in a poor state of repair. Some roof joists and purlins have rotted out and parts of the corrugated cladding are badly damaged.

11. Criteria Q.1(i) requires that any building operations including the installation or replacement of window, doors, roofs, or exterior walls, amongst other things, should be to the extent reasonably necessary for the building to function as a dwellinghouse. However as set out within the Planning Policy Guidance it clearly states that Class Q should be read with the assumption that the agricultural building is capable of functioning as a dwelling. In effect it is only when the existing building is already suitable for conversion to residential that the building would be considered to have this permitted development right.
12. Whilst the replacement of part of the end elevation and roof could be reasonably necessary for the conversion, the proposal also involves a significant lowering of the external walls and floor to create suitable internal height and to enable the insertion of full-height doors to serve the dwelling. The lowering of the floor and external walls are not mentioned within the Structural Survey and as a result, I have insufficient information to enable me to establish whether these works together or in isolation would result in the need for significant new foundations or other building operations.
13. Whilst the installation of exterior walls can be a form of building operations allowed under Criteria Q.1(i), in light of the extent of those works and the associated lowering of the floor, and from visiting the site, I do not find that the existing building is suitable for conversion in its current form. It would require substantial replacement and/or construction of exterior walls as well as the installation of a new floor. As a result, the operations to facilitate the change of use of the building to a dwellinghouse go beyond that which could be considered reasonably necessary.
14. For these reasons the proposal would not comply with the limitations of paragraph Q.1(i). As such, the proposal would not constitute permitted development in respect of Class Q(b).
15. As considerations in relation to prior approval are a follow-on condition stage under paragraph Q.2, they can therefore only apply if the development is otherwise permitted development. As the proposal would fail to constitute permitted development, there is no need to consider whether prior approval is required.

Other Matters

16. The appellant states that if I conclude that the works represent a change of use from an agricultural building under Class Q(a), any building operations could be covered in a subsequent application. However, as the application form clarifies that both the change of use and building operations are being applied for, I have dealt with the appeal on this basis.

Conclusion

17. For the reasons given above I conclude that the appeal should be dismissed.

C Rose

INSPECTOR