



Appeal Decision

Site visit made on 7 November 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2023

Appeal Ref: APP/K1128/W/23/3321395

The Cedars, Marley Head to New Cross, South Brent, Devon TQ10 9LW

- 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.
 - The appeal is made by Mr Steve Haskell against the decision of South Hams District Council.
 - The application Ref 0551/23/PDM, dated 10 February 2023, was refused by notice dated 6 April 2023. The development proposed is change of use of agricultural buildings/barns to 1No (class C3) & for associated development (Class Q (a+b)).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for a proposed change of use of agricultural buildings/barns to 1No (class C3) & for associated development (Class Q (a+b)) at The Cedars, Marley Head to New Cross, South Brent, Devon TQ10 9LW in accordance with the terms of the application, Ref 0551/23/PDM, dated 10 February 2023, and the details submitted with it, including drawing Nos KW-071-D00 Rev A; KW-071 D02 Rev A and KW-071 D03, pursuant to the GPDO. The approval is subject to conditions set out by Paragraph Q.2(3) of the GPDO in that development must be completed within a period of 3 years from the date of this decision as well as the provisions specified in paragraph W.

Applications for costs

2. An application for costs is made by Mr Steve Haskell against South Hams District Council. This application is the subject of a separate decision.

Preliminary Matters and Background

3. I have taken the description of development from wording used in the Council's decision notice and the appeal form as the application form refers to the supporting planning statement only. However, I have removed the superfluous wording to ensure a more concise form of words.
4. There have been similar applications refused at the site under 2547/22/PDM and 3429/22/PDM, amongst other things, for the building not being solely used for an agricultural use in conflict with Q1.a of the GPDO. I have however made my decision on the basis of the plans and documents which relate to the proposal subject to this appeal.

5. The Council considers that the development complies with the other requirements set out in the GPDO, and based on the evidence before me, I see no reason to disagree.

Main Issue

6. The main issue is whether the proposed development would be permitted development.

Reasons

7. The Council refused the application for prior approval on the basis that the proposed development did not meet the requirements of Q1.a of the GPDO. Amongst other things, this 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 20th March 2013 (the relevant date), 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. The Council is concerned that there had been an intervening domestic ancillary use since the building was last in an agricultural use which is disputed by the appellant.
8. In that context, the Council's delegated report references information submitted with previous applications and a previous site visit that noted the appeal building had recently been in use for the storage of logs, building materials and other miscellaneous items. However, I have not been provided with any substantive evidence in this respect including the scale, appearance, intensity, duration of this alleged use, or that these items would be non-agricultural. Furthermore, it is not uncommon for agricultural buildings to be used for a variety of storage purposes including logs or building materials if these are biproducts of a farming operation, as stated by the appellant.
9. Additionally, the appellant's evidence includes a Statutory Declaration that claims the building, that was constructed in 2009, has been in permanent use for agricultural purposes and continued to be used as such up to the date of signing, which was the 14th of September 2022. Although the declaration does not explicitly state that the building has, and continued to be solely used for agricultural purposes, at the time of my visit, it was laid out to contain hay, feed buckets and water troughs which is reflective of an agricultural use. Whilst my observations only represent a snapshot in time, they nevertheless provide useful context to the nature of the building's layout and likely last use.
10. Consequently, in the absence of any conclusive or compelling evidence from the Council to the contrary, I find that the building has been used solely for an agricultural use since the relevant date and that no subsequent intervening domestic ancillary use has interrupted the right afforded under the GPDO. As such, the proposal would constitute permitted development.

Other Matters

11. The Council has referred to other appeal decisions at Leigh Farm¹, Burstone Farm² and Heatherton Park Farm³. However, these examples are materially different from the scheme before me as at Leigh Farm, the Inspector concluded

¹ APP/W1145/A/14/2228637

² APP/W1145/A/14/2229412

³ APP/D3315/A/14/2226958

that there was little evidence that particular building was in an agricultural use. Moreover, it was laid out to contain a bathroom and toilet. Burstone Farm included photographic evidence which the Inspector found strongly indicated that one of the barns had been in use for ancillary domestic purposes, whereas no such evidence has been submitted with this appeal. The Inspector found that with the Heatherton Park Farm appeal, reference was made to the storage of non-agricultural vehicles at certain times of the year, which is not comparable with the scheme before me. In any case, I have assessed the proposal on the evidence before me and my own observations.

Conditions

12. Any prior approval and planning permission granted for development under the GPDO is subject to the condition that it must be completed within a period of 3 years starting with the prior approval date, as well as the provisions of paragraph W.
13. Given I have listed the submitted plans in my decision and Paragraph W(12) of the GPDO requires development to be carried out in accordance with the details submitted, a plans condition is unnecessary.

Conclusion

14. For the reasons given, the appeal succeeds.

J Hills

INSPECTOR