



Appeal Decision

Site visit made on 31 October 2023

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Appeal Ref: APP/W3330/W/23/3315615

Brickyard Farm, Bull Street, Creech St Michael, Taunton TA3 5PW

- 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 Mr J Peilow against the decision of Somerset West and Taunton Council.
 - The application Ref 14/22/0056/CQ, dated 10 November 2022, was refused by notice dated 5 January 2023.
 - The development proposed is prior approval for proposed change of use from agricultural building to 1 No. dwelling house (Class C3) and associated building operations.
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Decision

1. The appeal is dismissed.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Background and Main Issues

3. Under Class Q of Part 3 of Schedule 2 of the GPDO, planning permission is granted for agricultural buildings to dwellinghouses, subject to limitations and conditions. It is common ground between the main parties that the proposed development meets the requirements of Q.1 of Part 3, and I have no evidence to indicate otherwise.
4. The Council however refused the prior approval application, making reference to Article 3(5) of the GPDO and paragraph Q.2(1)(e) of Class Q. Therefore, the main issues are whether prior approval should be granted under Class Q of Part 3 of Schedule 2 of the GPDO, in relation to:
 - whether the building is contrary to Article 3(5) of the GPDO; and
 - whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use, with particular regard to noise and disturbance.

Reasons

Article 3(5) of the GPDO

5. The building, the subject of this appeal (the Class Q building), is located within Brickyard Farm. The Council considers that certain building operations involved

in the construction of the building are unlawful, contrary to Article 3(5) of the GPDO.

6. These building operations comprise the replacement of cladding on the southern side of the building with black metal cladding. The previous cladding consisted of an older metal, which was weathered due to its age.
7. The Council has accepted that the replacement cladding is a similar material to the one it replaced in so far as it is a metal cladding, and I have no evidence to indicate otherwise. Therefore, the only change that could possibly be of any significance is the colour of the cladding, which was previously silver / rust, and is now black.
8. In this regard, whilst the shade of colour of the cladding has changed, this has occurred only on one side of the building, and the overall form and shape of the building has remained unchanged. Additionally, the change in the shade of colour is not significantly different from the previous shade. Moreover, the building still has the appearance of a typical agricultural building. In other words, the external appearance of the building, when considered as a whole, has not been materially affected by the replacement cladding.
9. On this basis, I consider that the building operations referred to fall within the ambit of s55(2)(a)(ii) of the Town and Country Planning Act 1990 (as amended) (the Act) which provides that the carrying out for the maintenance, improvement or other alteration of any building of works which do not materially affect the external appearance of the building shall not be taken for the purposes of the Act to involve development of the land.
10. I have had regard to appeal decision Ref APP/J1915/W/21/3267689, where like-for-like repairs not altering the appearance of the building were found to not constitute development within the terms of the accepted definition. However, as no plans have been provided the circumstances of that appeal are unclear, and in any event I am required to apply the definition given in s55(2)(a)(ii) of the Act, which has been considered above. Appeal decision Ref APP/J1915/W/21/3267689 therefore does not change my findings.
11. As the replacement cladding does not involve development, it follows that no building operations in the terms of Article 3(5) of the GPDO have taken place. I therefore find that the building is not contrary to Article 3(5) of the GPDO.

Living conditions

12. The Class Q building is located directly adjacent to an existing agricultural building. This adjacent building is subject to a restrictive planning condition¹ limiting its usage for dry storage only, and not for accommodating livestock or for silage storage.
13. The appellant has stated that Brickyard Farm does not operate with unusually high intensity and neither are the vehicles or machinery used on the farm unusually large or loud. However, few details have been provided to substantiate these assertions. Nor have details been provided to illustrate the nature and scale of the operations undertaken across Brickyard Farm. In these circumstances, given the large size of the adjacent agricultural building, and the consequent potential for excessive noise and disturbance arising from its

¹ Condition 6 of Local Planning Authority decision Ref 14/20/0007/CQ

storage usage in close proximity to the Class Q building, it is necessary to take a precautionary approach.

14. This means that, in the absence of any detailed technical evidence (such as a Noise Impact Assessment, for example), I find that it has not been demonstrated that the adjacent agricultural building would not result in an unacceptable level of noise and disturbance which would unduly undermine the reasonable expectations of peace and quiet for the future occupiers of the proposed dwelling, thereby harming their living conditions.
15. Although dry storage is not explicitly listed as a type of unacceptable storage usage in the relevant section of the PPG², the PPG does not provide an exhaustive list of examples of what is meant by impractical or undesirable. Nor does it provide a definitive list of acceptable uses. The advice given in the PPG must be applied to the particular circumstances at hand, and as explained above, in this case it has not been demonstrated that the potential harmful impacts of the proposed development could be mitigated, which the PPG recognises can occur in some circumstances.
16. The fact that other Class Q prior approval applications may involve buildings that are located in, or within close proximity to, working and operational farms, does not alter the fact that the Class Q building involved in this appeal is located in a particularly sensitive position, given the existing agricultural building sited adjacent to it.
17. The appellant has suggested that a planning condition that imposes a time restriction on when vehicular movements can take place to and from the existing agricultural building could be imposed. In this regard, Article 3(1) of the GPDO grants planning permission for the classes of development described as permitted development in Schedule 2 of the GPDO, including Class Q of Part 3 of Schedule 2. Paragraph W.(13) of Part 3 of Schedule 2 of the GPDO provides that conditions may be imposed which are reasonably related to the subject matter of the prior approval.
18. However, in this case, the subject matter in question is paragraph Q.2(1)(e), which relates solely to the location or siting of the building. The building referred to in paragraph Q.2(1)(e) is the Class Q building. As the proposed condition would not relate to the Class Q building, it would not relate to the subject matter of paragraph Q.2(1)(e), and hence would not be reasonably related to that subject matter. On this basis, I consider that the proposed condition does not fall within the ambit of paragraph W.(13).
19. Nor would the proposed condition be related to the development permitted by Article 3(1) of the GPDO, as that development relates only to the Class Q building. Additionally, as the proposed condition would attempt to restrict operations on a site not functionally associated with the appeal site, the proposed condition would not be reasonably related to the development permitted. I therefore consider that the proposed condition cannot be imposed.
20. I recognise that the Council previously saw fit to impose a planning condition³ relating to a different building than the building under consideration in a Class Q prior approval application. Nevertheless, I am not bound to fall in line with any previous decision of the Council, and as the Officer's Report for that prior

² Paragraph 13-109-20150305

³ Condition 6 of Local Planning Authority decision Ref 14/20/0007/CQ

approval application has not been provided it has not been possible to scrutinise the logic applied by the Council in that case. The dwelling permitted by that decision is detached from its nearest agricultural building and that building is less substantial in size when compared with the existing agricultural building which is located adjacent to the Class Q building, meaning that this decision is not directly comparable with the appeal proposal. For these reasons, Local Planning Authority decision Ref 14/20/0007/CQ does not change my findings.

21. In any event, as I have not been provided with any specific proposed hours of operation, it is unclear if any hours of operation imposed would unduly restrict the operation of the adjacent existing agricultural building in commercial or operational terms. It is not my role to speculate as to what hours of operation might be feasible in these respects. For these reasons, it would not be reasonable for the proposed condition to be imposed in the present circumstances.
22. The appellant has highlighted that within the terms of the GPDO, 'building' includes any part of a building. Even so, any application under Class Q relating to residential and agricultural use under one roof would still be subject to the requirements of paragraph Q.2(1)(e). Any grant of prior approval would only be given following an assessment of the facts on the ground, in relation to the requirements of paragraph Q.2(1)(e). As explained above, based on the evidence before me, it has not been demonstrated that the requirements of paragraph Q.2(1)(e) have been fulfilled.
23. I therefore find that the siting of the Class Q building makes it undesirable for the building to change use, with particular regard to noise and disturbance. The proposed development would not comply with paragraph Q.2(1)(e) of Class Q of Part 3 of Schedule 2 of the GPDO.

Conclusion

24. Although I have found that the building is not contrary to Article 3(5) of the GPDO, as the proposed development would not comply with the requirements of paragraph Q.2(1)(e) of Class Q of Part 3 of Schedule 2 of the GPDO, prior approval cannot be given for the proposed development. Therefore, for the reasons given above, having considered all relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR