



Appeal Decision

Site visit made on 31 January 2024

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/W1145/W/23/3322855
Farthing Fields, Chilla, Beaworthy EX21 5XG

- 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 W Jury against the decision of Torridge District Council.
 - The application Ref 1/1080/2022/AGMB, dated 21 October 2022, was refused by notice dated 19 December 2022.
 - The development proposed is Change of use of agricultural building and associated operational development to create 1no. smaller dwelling house.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of 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) for Change of use of agricultural building and associated operational development to create 1no. smaller dwelling house at Farthing Fields, Chilla, Beaworthy EX21 5XG in accordance with the terms of the application, Ref 1/1080/2022/AGMB, dated 21 October 2022, and the details submitted with it, including Drawing Nos 200_01, 200_02, 200_03 and 200_04, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of Schedule 2, Part 3, Class Q of the GPDO, the provisions specified in paragraph W and the following additional condition:
 - 1) Should any contamination of soil or groundwater be discovered during development of the site, the Local Planning Authority should be contacted immediately. Site activities within that phase or sub-phase or part thereof should be temporarily suspended until such time as a procedure for addressing such contamination is agreed upon with the Local Planning Authority.

Background and Main Issues

2. Under Article 3(1) and Schedule 2, Part 3, Class Q(a) and (b) of the GPDO, planning permission is granted, subject to certain limitations and conditions, for the change of use of agricultural buildings to dwellinghouses and building operations reasonably necessary to convert the building. In this instance, subject to a condition related to contamination risks, the Council has not identified that its prior approval is required with respect to any of the matters

listed in paragraph Q.2(1) of Class Q. On the basis of the submitted evidence, I have no reason to disagree.

3. The Council considers that the development also accords with the requirements set out in paragraph Q.1 of Schedule 2, Part 3, Class Q of the GPDO with the exceptions of (a) and (i). There is no contrary evidence before me with respect to the other criteria in paragraph Q.1. Accordingly, the main issues are whether the proposal would be permitted development with particular regard to the use of the site and building, and the extent of the building operations necessary to convert it.

Reasons

Use

4. Permitted development under Schedule 2, Part 3, Class Q of the GPDO relates to 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). Paragraph Q.1(a) sets out that development is not permitted if the site was not used solely for an agricultural use as part of an established agricultural unit— (i) on 20th 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 20th March 2013, for a period of at least 10 years before the date development under Class Q begins. In this instance, the available evidence indicates that the site was in use on 20 March 2013. Accordingly, for the proposal to meet Part Q(a) and paragraph Q.1(a), the building must be an agricultural building and the site must have been used solely for an agricultural use as part of an established agricultural unit on 20 March 2013.
5. Supporting the interpretation of Part 3 of Schedule 2 of the GPDO, paragraph X defines an agricultural building as ‘a building...used for agriculture and which is so used for the purposes of a trade or business; and “agricultural use” refers to such uses’. This indicates that any agricultural use must have a commercial – but not necessarily profitable – nature. It also sets out that an established agricultural unit ‘means agricultural land occupied as a unit for the purposes of agriculture’.
6. The submitted statutory declaration by the owner of the site in 2013 sets out that the land, purchased and registered as an agricultural holding by them in 1998, was used to keep dairy goats (under a registered herd number) for a domestic milk supply and the sale of kids, until approximately 2017. They set out that the land was also used to keep geese (for the selling of fertile eggs and the raising of goslings), bees and hens (with the produce of both sold locally), for the growing of vegetables (also sold locally), and as grass keep for sheep owned by others. The available evidence indicates that the growing of vegetables and the keeping of sheep and hens continues now.
7. Despite the goats providing a domestic milk supply and the current owners of Craythorne Farm alleging that there has been no commercial activity at the site since they moved in, the submitted evidence points to the site’s use involving more than a domestic use/hobby smallholding. The statutory declaration also explicitly states that the owner used the holding for agricultural activities in 2013, with the barn used to house animals and store feed, straw and equipment, and remains in agricultural use now. The appellant’s inventory of

equipment within the building and photographs of animals (including goats, sheep and geese) confirms this, as did my site visit where I observed various agricultural equipment, operations and animals.

8. Substantiating this is an email from a shepherd who confirms that they have kept sheep at the site every year since 2001, using the fields as grass keep and the barn for the shelter, food storage and treatment of the flock. They also confirm the presence of various other livestock, as referenced in the above statutory declaration, on the site over the years. A letter from the owner of Craythorne Farm in 2013 provides further confirmation of the above.
9. Even if the operation is not particularly large or profitable, and animals were/are not kept in significant numbers, this clearly equates overall to an agricultural use for trade as part of an agricultural unit, as per the above definitions. The lack of financial records/bookkeeping and the lack of electricity, mains water, milking facilities and drainage system do not lead me to a different conclusion. In coming to this view, I have also taken account of the appeal decision put to me by the Council which dealt with a similar issue.
10. Despite the statutory declaration from a neighbour, I have little evidence to substantiate the use of the site and building for the grazing and stabling of horses/ponies, and the extent of any such activities. On the balance of probabilities, it seems to me that the extent of any equine-related activities since the nearest neighbours moved in would also have been ancillary to the site's agricultural use and insufficient to equate to a change of use of the building. Irrespective of the scale of the agricultural use and the size of the site and building, I am therefore satisfied that the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013 and that the building is an agricultural building. The barn's scale and design, including its stable-type doors, do not lead me to a different conclusion. Accordingly, the use of the site and building meets the relevant criteria for the appeal proposal to be classed as permitted development within the terms of Part Q(a) and paragraph Q.1(a) of Schedule 2, Part 3, Class Q of the GPDO.

Extent of works

11. The existing timber framed barn has corrugated metal roofing and, with the exception of the open sided shelter at the rear, is enclosed by timber walls. Whilst most consist of solid vertical timber cladding, some of the walls – including all of the eastern elevation – are made of ply boarding and the roofing material has clearly been in place for some time. In addition, some of the timber uprights are set into bare ground and the walls are not all set above concrete slab. Nevertheless, the building appears to be a solid, well-built, watertight structure overall.
12. Part Q(b) of Class Q allows building operations reasonably necessary to convert the building to a dwelling house. Paragraph Q.1(i) sets out that such works are limited to (i) the installation or replacement of (aa) windows, doors, roofs and exterior walls to the extent reasonably necessary for the building to function as a dwelling house and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
13. The Planning Practice Guidance (PPG) advises that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. It also clarifies that it is not the intention of the

permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. It therefore states that it is only when the existing building is already suitable for conversion that it would be considered to have the permitted development right.

14. No guidance is provided as to what 'reasonably necessary' may mean. However, development is only permitted under Class Q 'to convert the building' and it seems to me that this means it needs to be sufficiently structurally sound and substantially built to be capable of accommodating the works proposed without needing to be rebuilt. The building operations required should therefore not be so extensive so as to amount to rebuilding or new build. The difference between conversions and rebuilding is discussed in the case of *Hibbitt vs Secretary of State for Communities and Local Government*¹, to which I have had regard. However, unlike the building in the Hibbitt case, the appeal building is enclosed on all sides and is clearly not a skeletal structure.
15. The development proposed would involve various building operations, including the installation of a timber front door, sliding patio doors, various windows, replacing the GRP rooflights to matching corrugated metal sheets, and some infilling around the proposed windows and doors with matching timber cladding and plywood sheeting. However, the appellant's schedule of works and structural assessment² (Acorus report) sets out that the existing building and structure are strong enough to take the loadings associated with the proposed residential use, whilst the external cladding materials are in good condition and suitable to be retained. With little evidence of deflection or decay of the timber uprights (and their footings), rafters and purlins, other than some minor issues with the latter elements, the existing timber framed structure would therefore remain, with metal shoes added to the uprights. As shown on the submitted drawings, most of the existing walls would also remain, providing a rain screen in front of new insulated and weathertight (but non-load bearing) internal walls. Insulation would also be incorporated beneath the retained roof, which the Acorus report recommends should be painted to extend its life and ensure continued waterproofing.
16. Although the Acorus report provides further details about other internal works that would be carried out to convert the building to residential use, such as to the floor, internal works are not generally development which require planning permission. Based on the available evidence, the internal works required to convert the building to residential use would in this case also not involve significant structural works or reinforcement, and the addition of metal shoes to the uprights would not involve substantial works. In any event, the PPG sets out that, for the building to function as a dwelling, it may be appropriate to undertake internal structural works, including to allow for aspects such as a floor and internal walls, which are not prohibited by Class Q.
17. Whilst the proposed conversion would involve various building operations, all the external works proposed are permitted under Class Q.1(i)(i) to the extent that they are reasonably necessary to allow the conversion of the building to function as a dwelling. From the available evidence and my site visit observations, the building is – despite the timber structure's age and treatment and not having, for example, a steel frame, brick/block work walls or fibre

¹ [2016] EWHC 2853 (Admin).

² By Acorus, dated October 2022, updated May 2023.

cement roof – clearly sufficiently substantial and structurally sound to be capable of accommodating the proposed works, which are reasonably necessary to convert the building. This includes with respect to, amongst other aspects, the weight of internal insulation and weather conditions. The additional detail from the chartered engineer in Appendix 1 of the Acorus report confirms this, whilst the lack of involvement of a chartered surveyor and details relating to foundations do not lead me to a different view. The existing structure, roof and majority of the walls would also remain, with the proposed elevations clearly showing a building similar to the existing rather than an entirely new building. In any event, the PPG sets out that the operations reasonably necessary to convert the building may include those which would affect the building's external appearance.

18. The existing plywood walls and metal roof sheeting are relatively lightweight and may not typically enclose residential properties, whilst it is alleged that the timber structure will have to be replaced due to its age and treatment. Be that as it may, I have little substantive evidence that these elements would, when combined with the internal works referenced, be inherently unsuitable or of insufficient quality for the use proposed and could not be retained as indicated. Although it is not proposed that the walls would be replaced, paragraph Q.1(i) allows for the replacement of exterior walls in any case. The findings for other appeal proposals do not lead me to a different conclusion.
19. For the above reasons, the building operations proposed could not reasonably be described as starting afresh or excessive, and collectively would not amount to a complete or substantial re-build or new build. Accordingly, the appeal proposal would involve building operations to the extent reasonably necessary for it to function as a dwellinghouse. The building's design, scale and structure do not lead me to a different conclusion. As such, the extent of the proposed building operations necessary to convert it meet the relevant criteria for the appeal proposal to be classed as permitted development within the terms of paragraph Q.1(i) of Schedule 2, Part 3, Class Q of the GPDO. This is subject to the works not going beyond what has been proposed, such as not involving for example underpinning or strengthening of the building's existing foundations.

Other matters

20. Article 3(9A) of the GPDO provides that Schedule 2 does not permit any new dwellinghouse where there is not compliance with the nationally described space standard issued by the Department for Communities and Local Government on 27 March 2015. In this instance, the supporting statement sets out that the internal floor area would be 66 square metres; whilst this would not meet the minimum for a two-bed four-person unit, it would be sufficient for three people and the presence of two double beds on the proposed floor plan does not mean that the unit would necessarily be occupied by four people.
21. A number of other matters have been raised by interested parties and I have taken them all into account. This includes matters such as: the site and building not being connected to Craythorne Farm; the assurances received by the current owners when purchasing that property that no commercial businesses were running in the immediate area; compliance with building regulations, the costs associated with the conversion, and the ability to obtain a mortgage and building insurance; the development of the site in the past few years and there allegedly being no planning consent for the buildings on the

unit; the surrounding area being very wet, with the subsequent need to re-dig footings/foundations for a nearby development on the same subsoil and terrain as the site; the converted building not being attractive or reflecting its surroundings; the need for surveys covering protected species including bats and birds; and the submission of revised/updated documents with the appeal. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these, and some also do not relate to the prior approval matters. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed.

Conclusion and Conditions

22. For the above reasons, the appeal is allowed and prior approval is granted.
23. Any prior approval and planning permission granted for the change of use of agricultural buildings to dwellinghouses under Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO is subject to the condition Q.2(3) which specifies that the development shall be completed within a period of 3 years starting with the prior approval date. Accordingly, the Council's suggested time condition is not necessary. Given I have listed the submitted plans in my decision above and paragraph W(12) of Schedule 2, Part 3 of the GPDO requires the development to be carried out in accordance with the details submitted, the Council's suggested plans condition is also unnecessary. I have therefore not imposed either condition.
24. The Council's other suggested condition relates to contamination risks on the site and paragraph W(13) allows the granting of prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. Given the potential for contamination due to the agricultural use of the site, I have therefore imposed the condition.

T Gethin

INSPECTOR