



Appeal Decision

Site visit made on 14 May 2024

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2024

Appeal Ref: APP/D0840/W/23/3332184

Todden Coath Farm, Road From Junction South Of Sheffield To Todden Coath, Sheffield, Paul, Cornwall TR19 6UQ

- 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 Oliver Archer against the decision of Cornwall Council.
 - The application Ref PA23/02951, dated 11/04/2023, was refused by notice dated 29 June 2023.
 - The development proposed is change of use of agricultural building to three dwellinghouses (use Class C3).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 21 May 2024, SI 2024 No 579 (SI) came into force amending Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country (General Permitted Development) (England) Order 2015) (as amended) (the GPDO). Article 10 of this SI introduces transitional arrangements so that any development that is permitted under Class Q immediately before 21 May 2024 but is no longer permitted as a result of this Order will continue to be permitted for a further 12 months.
3. The main parties have been given the opportunity to comment on the changes to the GPDO arising through the SI and I have taken account of these comments in my decision. As the proposal includes a dwellinghouse larger than 150 sq m, in this regard, it would no longer be permitted when assessed against Q.1(c) of the amended Article 3. Consequently, under the transitional arrangements, the amendments made to Article 3 by the SI do not apply, and the development is subject to the previous regulations.
4. The Planning Practice Guidance advises that the starting point for Class Q of the GPDO is that the permitted development rights grant planning permission, subject to the prior approval requirements. However, it is necessary to determine whether the proposal falls within permitted development.
5. Class Q of the GPDO states that development consisting of Q(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) of the Schedule of the

Use Classes Order¹; and Q(b) building operations reasonably necessary to convert the building, is permitted development.

6. Where development is proposed under Class Q(a) together with Class Q(b), it is permitted subject to the condition under paragraph Q.2(1) that before beginning the development, an application must be made to the local planning authority for a determination as to whether the prior approval will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building.
7. Paragraph Q.1 of Schedule 2, Part 3 of the GPDO sets out a number of exclusions where development is not permitted including "(a) 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".
8. The Council considers that insufficient evidence has been submitted to demonstrate that the proposal complies with Q.1(a). Furthermore, the Council objects to the design and external appearance of the proposed dwellings when assessed under Q.2(1)(f).

Main Issues

9. Taking into account the above, the main issues are:
 - whether the proposal would be permitted development, with regard to whether the requirements of Schedule 2, Part 3, Class Q in terms of paragraph Q.1(a) of the GPDO would be met; and
 - if permitted development is not excluded by Q.1, whether the proposals design and external appearance would be acceptable in relation to paragraph Q.2(1)(f) of the GPDO.

Reasons

Agricultural Use

10. Schedule 2, Part 3, paragraph X of the GPDO sets out that for the purposes of Part 3 permitted development rights, 'agricultural building' means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business, and 'agricultural use' refers to such uses. It also defines 'established agricultural unit' as agricultural land occupied as a unit for the purposes of agriculture on or before 20th March 2013 or for 10 years before the date the development begins.
11. The evidence before me includes 2 Statutory Declarations. The appellant's case is supported by the Statutory Declaration (SD1) of Mr Christopher Hollow. In SD1, Mr Hollow states that the agricultural building (the barn) was built in

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

- 1975 within the established agricultural unit of Todden Coath Farm, for the purposes of agricultural trade and business. It is also stated within SD1 that the farm stopped operating in 2001, and the barn, along with the adjacent field, were sold to the owners of the Old Farmhouse (a retired director from London), and that the barn has remained unused since.
12. The Council's case is supported by the Statutory Declaration (SD2) of Dr. Simon Perry. Within SD2, it is stated that the barn was in agricultural use until 2001 when it was sold, along with the adjacent field, to Mr and Mrs Phillip Elliot who resided in the old Todden Coath farmhouse. At least 10 years later the farmhouse, barn and field were sold to Wayne and Margaret Murray. Dr Perry states that he knew both the Elliots and Murrays, in personal and professional capacities, and saw inside the barn fairly regularly over a substantial part of their time at the property. Dr Perry confirms that on no occasions did he ever see any sort of farm product or machinery, or anything else to do with agriculture, stored within the barn. Dr Perry goes on to state that the barn has been used for semi-domestic purposes, with a range of garden tools and equipment stored within the building, including, a strimmer, ladders, wood splitting tools, a ride on mower, and garden trailers for the mower. Additionally, it is stated that the barn provided storage for firewood for a woodstove, and has provided parking for a camper/mobile home that was parked about half-way down the barn, looking in from the big sliding doors.
 13. The submissions of interested parties support the historic agricultural use of the barn prior to it ceasing in 2001. It is clear from the evidence before me, therefore, that whilst the barn was in agricultural use up to 2001, it was not in use for agriculture on 20 March 2013.
 14. Paragraph Q.1(a)(ii) is intended to deal with a dormant use and has the effect that if the building was used for agriculture before 20 March 2013 and there has been no intervening or different use, the permitted development right under Class Q would still apply.
 15. The assertions within SD2 regarding the intervening different use of the barn for domestic storage are supported by a photo of its interior contained within a Structural Report² (dated March 2021). In that photo, the barn is being used to store a ride on mower, surfboards, bicycles, plastic storage boxes filled with what appear to be domestic items, and a step ladder.
 16. The Council state that during a case officer's site visit for one of the previous applications at this site, the barn was being used for the repairing of a vehicle by the owners of the building. This matter is addressed in an appeal decision³ from May 2022 relating to an application for the conversion of the barn to a dwelling. In the 2022 appeal decision, it is noted that the appellant comments that the use of the building for repairing a vehicle was a short-term convenience. The Inspector in the 2022 decision, based on the information before him, considers that, on the balance of the evidence, the barn was disused and redundant. At the time of my site visit, the barn was empty and there was no discernible physical evidence of a current use. However, whether the barn is currently redundant (or not) is not determinative against the specific criteria set out within Paragraph Q.1(a).

² Martin Perry Associates Structural Report, Project Ref: 20147/C, dated March 2021

³ Appeal Ref: APP/D0840/W/21/3283411

17. Overall, I find that whilst the evidence before me is contradictory, the evidence supporting the Council's position is more substantive. On the balance of probabilities, I find the appeal building has had a materially different intervening use for domestic storage for a significant number of years following the cessation of its agricultural use. Even if the intervening use of the building for domestic storage only utilised a proportion of the building, the mixed use of the building would preclude permitted development under Class Q.
18. Under paragraph W of the GPDO, the Local Planning Authority may refuse an application where the developer has provided insufficient information to establish whether the development complies with any conditions, limitations or restrictions in Part 3. I conclude that there is insufficient information to demonstrate that the relevant GPDO conditions, limitations and restrictions have been met in respect of the criteria listed under paragraph Q.1(a) of the GPDO.

Prior Approval

19. Given my conclusion that the proposal would not be development permitted under Schedule 2, Part 3, Class Q(a) of the GPDO, there is no need for me to consider the prior approval matters as it would not alter the outcome of the appeal. Notwithstanding this, given the Council's stated objection to the design and appearance of the proposal under para Q.2(1)(f), I have addressed that matter below.

Design and External Appearance

20. The barn is currently read as a modern agricultural building of the type commonly associated with the surrounding rural working landscape. The modern utilitarian appearance of the barn is, therefore, accepted in the landscape given the requirements of agriculture.
21. Whilst the development would retain the overall form of the existing building, the proposed extensive installation of doors, windows and rooflights would have a domesticating effect that would be wholly discordant with the utilitarian agricultural appearance of the building. The barn is prominent in public views from the adjacent public right of way to the north, and is also visible in public views from the highway to the south and east. The extent of fenestration proposed would be a conspicuous change that would draw the eye and detract from the existing comfortable agricultural character of the building within its rural setting.
22. Consequently, even if I were to have shared the appellant's view regarding Q.1(a), the proposed design and external appearance of the dwellings would be unacceptable (and prior approval refused) when assessed under para Q.2(1)(f).

Other Matters

23. In response to the SI coming into force and amending Article 3(1), the appellant submitted amended plans which reduced the floor space of unit 3 to below 150 sq m. As the site has been used for a non-agricultural purpose since ceasing to be part of an established agricultural unit, even if I were to accept the amended plans and assess the proposals against the amended regulations, the proposal would not be permitted development as it would fail to comply with Q.1(b)(iii).

24. Both parties have referred to other appeal decisions in support of their respective cases. I have had regard to those appeals, however, the nature of this matter turns on the specific facts of this appeal. I have reached my conclusion on that basis.

Conclusion

25. For the reasons given, the proposal is not permitted development and the appeal is dismissed.

S D Castle

INSPECTOR