

Appeal Decision

Site visit made on 21 August 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2024

Appeal Ref: APP/Y2620/W/24/3336619

Glebe Farm ("Barn B"), Marsh Road, Potter Heigham, Norfolk, NR29 5LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Robert Hall against the decision of North Norfolk District Council.
 - The application Ref is PU/23/2311.
 - The development proposed is the change of use and building operations reasonably necessary for the conversion of an agricultural building to create 1 larger and 2 smaller dwellinghouses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 21 May 2024, Statutory Instrument 2024 No 579 came into force amending Article 3(1), Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO). Both main parties have been consulted on this and I have taken their comments into account. Due to the transitional arrangements, I have proceeded to determine the appeal in accordance with the GPDO provisions that were in force at the time the original application was submitted.
3. As the description of development is unclear on the application form, I have used the Council's description of development in the banner heading above.
4. The appellant has submitted an amended plan as part of their appeal. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
5. The amended plan seeks to address concerns raised by the Environment Agency relating to flood risk, by including a first-floor place of refuge in each of the proposed dwellings. Although the amendments would result in internal alterations only, the additional floorspace that is proposed to be provided and retained to make the development safe, and which would need to be usable by future occupiers for potentially long periods of time in the event of a flood, would need to be included in the proposed floorspace calculations. In reaching this view I am mindful that Planning Practice Guidance indicates that internal structural works, including the insertion of a mezzanine *'within the overall*

residential floor space permitted' and within the context of works reasonably necessary to convert the building, would not be prohibited by Class Q.

6. The additional floorspace that would be created by the first-floor refuge areas would result in the two proposed smaller dwellinghouses exceeding the 100sqm floor area permitted by Class Q. As a result of this the amended proposal would conflict with the description of development for one larger and two smaller dwellings and would differ from the scheme considered by the local planning authority and by interested parties, including the Environment Agency, at the application stage. I have therefore determined the appeal based upon the plans submitted with the application.

Main Issue

7. The main issue is whether the proposal is permitted development having regard to Class Q, Schedule 2, Part 3 of the GPDO.

Reasons

8. Class Q of the GPDO permits development consisting of 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 to the Use Classes Order, together with building operations reasonably necessary to convert the building.
9. To be permitted development, the existing use of the building, or in the case of an empty building the last use of that building, must be that specified in the permitted development right. Therefore, the existing use or last use of the building must be solely agricultural use, and the building must not have been used for any other purpose since the agricultural use ceased.
10. The evidence before me indicates that the appeal building was granted planning permission as an agricultural storage building in 2005. However, I have not been provided with any evidence of its agricultural use or when that use ceased. A letter from the appellant states that livestock operations across the wider farm site ceased in 2016, and that all associated farmland has been sold. I have not been provided with anything specific in relation to the use of the appeal building, but I note from the Council's report that previous applications have stated that it was used for the storage of straw. Provided the appeal building was constructed and used for agriculture in accordance with the 2005 planning permission and was part of an established agricultural unit on or before 20th March 2013, it would continue to qualify for permitted development rights under Class Q unless there has been a material change of use.
11. At the time of my visit the appeal building, and part of its curtilage, were being used for the storage of building materials. The scale of this use, which included multiple large pallets of bricks stacked from floor to eaves height and other large quantities of bulky goods, could not be reasonably considered de minimis, or incidental to agriculture.
12. Whilst I acknowledge that the appeal site does not have planning permission for its current use, which the appellant states is temporary, this does not alter the fact that a material change of use has occurred and as such the existing or last use of the site is not solely agriculture.
13. Based upon the evidence before me and the observations of my site visit, I conclude that the appeal building has not been solely used for agriculture as

part of an established agricultural unit and as such its change of use is not permitted development. As a result, it is unnecessary for me to go on and assess the building operations and flooding risks.

Conclusion

14. For the reasons given above the appeal is dismissed.

R Bartlett

INSPECTOR