



Appeal Decision

Site visit made on 17 September 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2024

Appeal Ref: APP/C3430/W/24/3342417

The Granary, Lyne Hill Lane, Penkridge, STAFFORD, ST19 5NT

- 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 Ms Helena Dolisznyj against the decision of South Staffordshire District Council.
 - The application Ref is 23/00756/AGRRES.
 - The development proposed is Application for the determination of Prior Approval under Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 as amended for making a material change of use of an agricultural building and land within its curtilage to a use falling within Class C3 (dwelling house); and (b) operations reasonably necessary to convert the building into domestic use.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Ms Helena Dolisznyj against South Staffordshire District Council. This application is the subject of a separate decision.

Preliminary Matters

3. This prior approval was originally submitted to South Staffordshire District Council prior to the 21 May 2024 and so I have considered it under the requirements of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Although the GPDO has been amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024/579, as the case was submitted prior to its implementation, I have decided it on the basis of the old Class Q within the GPDO.

Main Issues

4. The main issues are:

- Whether the barn was last used for agriculture as part of an agricultural unit,
- Whether the scope of the works is within that covered by the GPDO; and,
- Whether prior approval is needed as to the design or external appearance of the building?

Reasons

Last use

5. The appellant has provided evidence, including accounts, a dissolution notice and an appeal decision¹, to demonstrate that the appeal site and barn were in an agricultural use as part of an agricultural unit. I am content from the submissions that this use continued until around 2009 to 2010. Following the cessation of the agricultural business it appears that the associated equipment and machinery was stored in the barn while it was sold off or otherwise removed. I consider this to be a continuing tail-off of the agriculture use and that this was completed by 2012. Separately, an equestrian use was established from 2009 onwards for private use by the appellant. I understand that this covers the land surrounding the appeal site but does not cover the barn itself.
6. Whilst I am content that the building was used for agricultural purposes as part of an agricultural unit until 2012, for the development to be permitted development I must also be certain that since that date no intervening non-agricultural use has been carried out at the barn. Therefore, although I am mindful of the findings of the Kerswell House appeal² I must consider whether any uses, and if so what uses, occurred after this date.
7. The appellant has suggested that the GPDO requires a use to be lawful for it to be relevant to the requirements set out under Paragraph Q.1(a). I am also mindful of the Class Q appeal³ referred to by the appellant but I do not have all the relevant information before me to be certain of that case's context or circumstances. The GPDO states under Paragraph Q.1(a) that "development is not permitted by Class Q if – (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...". The rest of the Class and its interpretation section are silent on a requirement for any intervening use to be lawful and so I consider that the use does not have to be lawful for it to be relevant to the requirements.
8. The appellant's affidavit states that after the agricultural business was wound up the barn remained vacant "save for the intermittent occasional storage of hay and equipment when required". It has not, however, been set out whether it is the appellant, or another party, that required the storage and

¹ Planning Inspectorate Reference: APP/C3430/C/05/2004055

² Planning Inspectorate Reference: APP/J1860/W/20/3255136

³ Planning Inspectorate Reference: APP/X1545/W/18/3198348

what use the storage was connected to. Moreover, although they refer to the use being "short term and occasional" these are not sufficient to ascertain the frequency or length. Although the barn was empty at the time of my site visit, I cannot be certain that this is typical.

9. Given that the appellant has not provided any information as to what the intermittent storage relates to, and that the agricultural use ceased some significant time ago, the evidence before me does not indicate that the storage was solely for an agricultural use as part of an agricultural unit. On balance, and as it is surrounded by an equestrian use, it is likely that the storage of hay and equipment in the barn is in connection with this equestrian use.
10. I note the anecdotal evidence provided by the Council and an interested party that there have been a number of other uses at the site, namely a development and construction business, a fly repellents business and a dog kennel. However, as these are not supported by any substantive evidence, I can only afford these limited weight. Likewise, I find that the hoofprint found by the Council leading up to the barn is not determinative as it could have occurred under any number of scenarios including, as suggested by the appellant, a free-roaming horse.
11. Nevertheless, on the balance of probabilities I am not convinced from the submissions before me that the appeal barn was last used for an agricultural use as part of an agricultural unit. The barn does not, therefore, meet the requirements of Paragraph Q.1(a) of the GPDO and so does not benefit from the rights set out under Class Q.

Scope of Works

12. The GPDO sets out what works are covered by Class Q and these are expanded upon by the Planning Practice Guidance (the PPG). These works include new or replacement windows, doors, roofs and exterior walls insofar as they are reasonably necessary for the conversion of the building. Additionally internal works are not usually considered development and works such as the provision of a floor, a mezzanine or upper floor, and internal walls can be appropriate.
13. I understand that the proposal would incorporate a number of the works outlined above including the provision of new windows and doors and the closing up of the existing doorways with new walls. Internally, a new floor would be provided over the existing alongside internal walls. An additional, insulated, layer would be added to the inside of the existing walls and roof.
14. I consider that these works would be reasonably necessary in providing suitable living conditions for future occupiers. In particular, the additional openings would allow appropriate access, outlook and light for future occupiers while the additional insulation would ensure the building could be kept at an appropriate temperature. I do not find that the internal works would be so significant as to comprise a separate building within the barn and the scope of the works as a whole would not be so great as to be tantamount to a new or re-build.

15. Therefore, I consider the proposal would not exceed the scope of building operations covered by Class Q under Paragraph Q.1(i) and (ii).

Character and Appearance

16. The appeal building is a large barn with a shallow pitched roof. It is finished in green cladding to the roof and walls and has a regular pattern of tall, narrow window panels. The area immediately surrounding the barn is a mixture of overgrown planting and paddock areas.
17. The GPDO allows for the conversion of agricultural buildings and works to accommodate this. As outlined above, these include new windows, doors, roofs and exterior walls. It also allows for the use of the building's curtilage to be converted for domestic purposes, such as amenity space or parking. I consider that these changes would inevitably result in the development appearing more domestic than an agricultural barn.
18. In my mind the main external changes that would be readily legible within the wider area are the proposed windows, doors and boundary treatments. The windows and doors would replicate the scale, proportions and positioning of the existing windows and, although more domestic would still be sympathetic to the existing character and appearance of the building. Moreover, the building is likely to be only publicly viewed from a distance, given this the windows would not be prominent or intrusive features on the building.
19. The area surrounding the barn is somewhat overgrown and alongside this there are a number of close boundary treatments. Collectively this creates the impression of small paddock areas that would be replicated by the proposed gardens serving the three properties. Although they would become more domestic through the proliferation of residential paraphernalia, this would not be significant given the scale of the gardens and would be somewhat screened by intervening boundary treatments from public views within the wider area. I further find as boundary treatments in the wider area are varied, that the proposed treatments would not be unacceptable.
20. In light of the above, the proposal, through its design, use of materials and curtilage, would not become overly domestic to the detriment of the rural, agricultural appearance of the building and its surroundings. Therefore, prior approval of the local planning authority is not required with regard to Paragraph Q.2(f) of the GPDO.

Other Matters

21. The appellant has provided a copy of the advice submitted under 21/00092/PREAPP, a pre-application request for a number of new build dwellings across part of the equestrian site. I have not been provided with all the information that was available to the Council at the time they considered this scheme. I also cannot be certain of the quality, or quantity, of the information that was available to them, and it appears from their report that they did not carry out a site visit. Therefore, while they may not have questioned the use of the site or appeal building, this advice cannot bind the Council when they make a full assessment of the scheme at the planning application stage.

Conclusion

22. For the reasons given above the appeal should be dismissed.

Samuel Watson

INSPECTOR