



Appeal Decision

Site visit made on 18 November 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2024

Appeal Ref: APP/W3520/W/24/3342496

Land North of Cedars Close, Occold, Suffolk IP23 7PB

- 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 & Mrs Simonds against the decision of Mid Suffolk District Council.
 - The application Ref is DC/23/04162.
 - The development proposed is the conversion of an agricultural building to form 1No dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the prior approval notification form. In Part E of the appeal form it is stated that the description of development has changed. However, the appellant has stated that the change in description was not agreed. Accordingly, I have used the description given on the original prior approval notification form.
3. Prior approval is sought in respect of the proposed change of use and conversion of an agricultural building to a dwelling under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
4. The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024/579 came into force from the 21 May 2024, which involved several amendments to Class Q of the GPDO, including development that could be permitted and relevant limitations on the permitted development rights. However, the amendments to Class Q included transitional arrangements, such that any application or appeal made before 21 May 2024 should continue to be determined against the previous version of Class Q of the GPDO. I have therefore proceeded on this basis and herein reference to the GPDO will be in relation to the 1 August 2020 version of the GPDO.
5. The appellant has submitted a Structural Survey of Existing Agricultural Building for Proposed Conversion to Residential Use¹. I am mindful of the advice in the Planning Inspectorate's 'Procedural Guidance: Planning Appeals England', which makes clear that the appeal process should not be used to

¹ Dated 25 April 2024, produced by Edward Parsley Associates Ltd

evolve a scheme, and that what is considered by the Inspector at the appeal stage should essentially be the same scheme as the proposal that was considered by the Council and interested parties at the application stage.

6. Nevertheless, I consider that the proposal before me, is essentially the same as the scheme that was considered by the Council and therefore that the appeal process is not being used to evolve the scheme. Furthermore, the Council has had the opportunity to comment on the Structural Survey. As such, I am satisfied that the evidence does not alter the proposed development to an extent that anyone involved in the appeal would be prejudiced or impacted should I accept the Structural Survey.

Main Issues

7. Class Q of the GPDO permits the change of use of an agricultural building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) together with building operations which are reasonably necessary to enable the conversion of the building. This is subject to various limitations and conditions as set out in paragraphs Q.1 and Q.2 of that Class.
8. The Council are satisfied that the proposal meets all of the criteria contained in Class Q save for Paragraph Q.1(a) and Q.1(i). Furthermore, it has not taken issue with the matters listed for consideration in Paragraph Q.2.
9. The main issues are:
 - whether the building is in use as an agricultural building and whether the appeal site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or if the appeal building was not in use on that date, when it was last in use.
 - whether or not the development would comprise building operations reasonably necessary to convert it to a use falling within Class C3 (dwellinghouses); and
 - the effect of the proposed development on protected species.

Reasons

Agricultural use

10. Paragraph Q.1.(a) states that development is not permitted if the site was not used solely for an agricultural use as part of an established agricultural unit. In this context, 'agricultural' is defined in Section 336 (1) of the Town and Country Planning Act 1990. While the definition is not exhaustive, it includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly.
11. There is no dispute that the site is not currently in agricultural use and that the active agricultural use of the site ceased a considerable time ago. The evidence is consistent in noting that animals, including calves and chickens, were kept at the site. However, there is no substantive evidence before me

that demonstrates that these were kept in association with an agricultural enterprise.

12. Moreover, the evidence presented, both within the Statutory Declaration and the letters from both the current and previous owner of the site and occupants of neighbouring properties, acknowledge that the wider site has been used for other purposes since the cessation of the agricultural use. The evidence states that the site had been used by a previous owner in respect of making cement ornaments and to store various items, including scrap metal.
13. While the extent of these activities is not clear, the evidence indicates that a significant number of ornaments were manufactured at the site and a considerable amount of scrap metal, and other items were stored there. It is also apparent that the manufacturing of ornaments persisted for a substantial period of time. The letter from a previous owner of the site outlines that the site was used to store collected items, alongside the cement ornaments, as well as for personal leisure purposes. Moreover, the representations made by occupants of neighbouring properties corroborate the use of the site in respect of the manufacturing of cement ornaments. The Statutory Declaration further acknowledges that a large amount of clearance work has been undertaken since the current owner purchased the site, indicating the scale of the manufacturing and storage activities.
14. The site has historically been used for agricultural purposes. Nevertheless, the evidence demonstrates that this use ceased a considerable time ago. Although there has been no formal change of use at the site, including through the grant of planning permission or through a Lawful Development Certificate, the evidence before me does not support the assertion that the site was last used solely for an agricultural use. Moreover, the evidence indicates that the extent of the manufacturing of cement ornaments and the storage of scrap metal and other items was considerable and persisted for several years.
15. The evidence before me to support the assertion that the site was last used for agricultural purposes is limited. The totality of the evidence demonstrates that the site has not been used for agricultural purposes for a significant period of time and indicates that since its cessation the site has been used for the manufacturing of concrete ornaments and for storage purposes for several years. On the balance of probabilities and based on the evidence before me, I therefore cannot find that the scheme complies with paragraph Q.1(i) of the GPDO. Accordingly, the proposal does not benefit from the permitted development rights under Schedule 2, Part 3, Class Q of the GPDO.

Building operations

16. Paragraph Q.1(i)(i) states that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls, or water, drainage, electricity, gas, or other services to the extent reasonably necessary for the building to function as a dwelling house. Additionally, Q.1(i)(ii) allows for partial demolition of a building to the extent reasonably necessary to carry out building operations under Q.1(i)(i).
17. Paragraph 105 of the Planning Practice Guidance (PPG) advises that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, the PPG is clear that it is not the intention of the

permitted development rights to allow rebuilding work that would go beyond what is reasonably necessary for the conversion of the building to a residential use. Accordingly, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to benefit from the permitted development rights.

18. Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement based on fact and degree of an individual case. The building is enclosed by blockwork walls with corrugated sheeting to the roof supported by steel purlins and trusses. The Structural Survey indicates that the existing steel structure of the building and the concrete floor are in good condition and suitable for retention. I have no reason to conclude otherwise.
19. The PPG advises that internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for internal walls, which are not prohibited by Class Q. Given that the new insulation and frames to support walls and fittings would be installed internally, I do not find these elements of the proposal to constitute development. Accordingly, they would not be prohibited by Class Q.
20. Notwithstanding my conclusions on other issues, I find that the proposed works would be reasonably necessary to carry out the conversion of the building to a dwellinghouse and would not be so extensive as to constitute a rebuilding of the existing structure. In respect of this issue, I therefore conclude that the proposal would accord with the provisions of Schedule 2, Part 3, Class Q, Paragraph Q.1.(i) of the GPDO.

Other Matter

21. The Council has also raised concerns regarding ecology. While it is acknowledged that protected species are not specifically referred to in the GPDO, paragraph Q.2(1)(e) does require consideration of whether the location or siting of a building makes it otherwise impractical or undesirable to create a dwellinghouse. Additionally, the Council has a general legislative duty to consider whether protected species may be affected by development. However, as I have concluded that the development is not permitted under Class Q it is not necessary for me to consider the impact on protected species or ecology.

Conclusion

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

J Pearce

INSPECTOR