



Appeal Decision

Site visit made on 31 March 2025

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2025

Appeal Ref: APP/Y3425/X/24/3345354

Darlaston Wood Farm, Jervis Lane, Meaford, Stone ST15 0PZ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Raj Chatha against the decision of Stafford Borough Council.
 - The application ref 23/37756/LDCPP, dated 29 June 2023, was refused by notice dated 4 January 2024.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is the change of use of the agricultural building in question (the Barn) to a single dwelling house and for the establishment works that are necessary for the conversion of the existing barn into a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Section 192 of the Town and Country Planning Act 1990 (the Act), states '(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.'
3. The Town and Country Planning (General Permitted Development Order) 2015 (the GPDO) has been amended following the date the LDC application was submitted to the Council. In accordance with S192 of the Act, I have determined the appeal against the version of the GPDO in force on 29 June 2023.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

5. An application under S192(1)(a) of the Town and Country Planning Act 1990 (the Act) seeks to establish whether any proposed use of buildings or other land would be lawful. In an application for an LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful.
6. The appellant submitted an application to the Council to determine if prior approval is required for a proposed change of use of agricultural buildings to a

dwellinghouse (Use Class C3) and for building operations reasonably necessary for the conversion on 16 September 2022 (the prior approval application)¹. The Council failed to determine the application within 56 days.

7. By virtue of the provisions of paragraphs W and X of Schedule 2, Part 3 of the GPDO, the failure of the Council to notify the appellant as to whether prior approval is given or refused within 56 days, prior approval is deemed to have been granted. The crux of the matter is whether or not the development deemed to have been granted prior approval would be lawful.
8. Schedule 2, Part 3, Class Q of the GPDO states '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) of the Schedule to the Use Classes Order, or (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.'
9. Paragraph Q.1 (i)(i) states development under Class Q(b) is not permitted if it would consist of building operations other than the installation 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 dwellinghouse.
10. Planning Practice Guidance (PPG) recognises that for a building to function as a dwelling some building operations which would affect the external appearance of the building should be permitted. It goes on to state that internal works are not generally development and for the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q. However, the works that are undertaken must not exceed works necessary to convert the building, as opposed to it being a fresh build.
11. The structural report carried out by Paul Waite Associates, dated 29 April 2021, concludes the building is structurally capable of being converted without substantial structural alteration or demolition. The Council's Officer Report refers to the existing building having timber rain-screen cladding to all elevations and corrugated roof sheets. At the time of my site visit, the cladding and roof sheeting were removed; all that remained was the steel frame with a bare earth ground floor and a metal mezzanine floor installed.
12. There is little evidence before me regarding what works are required to convert the building. The structural report and the appellant's statement makes no reference to anything of the existing building being retained other than the steel frame. This correlates with the observations I made on site. Therefore, based on the evidence before me, the proposed works would utilise very little of the existing building, i.e. only the steel frame. The proposal would require a significant amount of works, most notably the installation of new walls on all elevations, a new roof and a new floor.
13. Individually, such works could be said to fall under the scope of paragraph Q.1(i). However, Class Q(b) concerns the conversion of the building and paragraph Q1.(i)

¹ Council reference 22/36587/PAR

the works reasonably necessary to achieve this. As set out in the PPG, the assumption is that the building in question is capable of functioning as a dwelling.

14. The only parts of the building that would likely be retained would be the existing steel structure. Therefore, I consider that the works required to enable the building to function as a dwellinghouse go beyond a conversion and the statutory limits of what could be considered reasonably necessary to achieve this. The proposal would in all practical terms be starting afresh, with only a modest amount of help from the original agricultural building. Consequently, it would fail to comply with Class Q(b) as the extent of the works go beyond what would be reasonably necessary to convert the building.
15. At the time the LDC application was made, Schedule 2, Part 3, paragraph X of the GPDO defined “curtilage” for the purposes of Class Q, as ‘(a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.’
16. The Council contend the curtilage of the agricultural building is larger than the area of the land occupied by the building. The appellant has provided no evidence to dispute this. On the evidence before me, I find no reason to conclude otherwise. Accordingly, the development would fail to accord with the requirements of Class Q(b).
17. Paragraph Q.2 sets out the conditions to Class Q, stating ‘(1) where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to...’ and sets out various matters.
18. By reason that the extent of the works would go beyond what would be reasonably necessary to convert the building and the size of the curtilage would exceed the area occupied by the building, the proposed development would not be development falling under Class Q(b). Therefore, the conditions set out in paragraph Q.2 are irrelevant to the proposed development as it is not permitted development. Accordingly, paragraph W of Schedule 2, Part 3, Class Q of the GPDO is not relevant as this only applies to development where a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.
19. Given the above, even though prior approval was deemed to have been granted, the proposed development the subject of that application does not benefit from permitted development rights and therefore cannot be lawfully carried out without planning permission. To take the appellant’s argument that prior approval is deemed to have been granted and therefore it is not open to me to consider whether it falls within the requirements and limitations of Class Q undermines the purposes of the GPDO. Such a position could enable an application to be made for almost anything under the description of being the conversion of an agricultural building to a dwelling, regardless of whether that is actually what is proposed and, providing the Council do not notify the appellant as to whether prior approval is

given or refused within 56 days, the development is considered to be permitted development. That is clearly not what the GPDO allows. If the development is not permitted development, express planning permission is required for it, even if prior approval has been deemed to have been granted.

20. I have had regard to the numerous case law referred to me by the appellant. However, these pertain to the matter of whether or not prior approval has been deemed to have been granted by virtue of the 56 day rule. However, the appeal before me concerns whether or not the proposed development would be permitted development, regardless of whether prior approval has been deemed to have been granted.
21. I find therefore, it has not been demonstrated that the proposed works would not go beyond building operations reasonably necessary to convert the building as set out in Class Q(b) and paragraph Q.1(i) nor that the curtilage would not be larger than the area occupied by the building. As such, it would not be development permitted under Schedule 2, Part 3, Class Q of the GPDO.

Conclusion

22. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Walker

INSPECTOR