
Appeal Decision

Site visit made on 1 February 2016

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 March 2016

Appeal Ref: APP/R3325/W/15/3132944

**Breach Hill Farm, Beech Lane, Stoke Trister, Wincanton, Somerset
BA9 9PQ**

- 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, Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mrs Lynn Cockerill against the decision of South Somerset District Council.
 - The application Ref 15/02961/PAMB, dated 1 June 2015, was refused by notice dated 5 August 2015.
 - Prior approval is sought for the proposed conversion of part of agricultural building to a dwelling.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the proposed conversion of part of agricultural building to a dwelling at Breach Hill Farm, Beech Lane, Stoke Trister, Wincanton, Somerset BA9 9PQ in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph W(2) of the GPDO and subject to the following condition:
 - 1) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any resident dependants.

Background

2. The Council's decision notice makes it clear that it was concerned that the proposal was not permitted development because it considered that the building was not solely used for agricultural purposes on 20 March 2013; that the location and siting of the building was impractical and undesirable given the building's impact on the character and appearance of the area; and that the proximity of a livestock building would be harmful to the living conditions of the intended future occupiers of the dwellinghouse.
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Main Issues

3. In light of the above, the main issues in this case are whether or not the proposal constitutes permitted development, and if it does, then whether or not it would require prior approval in respect of Paragraph Q.2.

Reasons

Whether the proposal constitutes permitted development

4. Class Q permits development consisting of (a) a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouse) of the Schedule to the Use Classes Order¹; and (b) building operations reasonably necessary to convert the building. This is subject to a number of situations where such development is not permitted, listed under Paragraph Q.1, and to conditions in Paragraph Q.2 setting out the circumstances when an application to the local planning authority for the determination as to whether the prior approval of the authority will be required.
5. Paragraph Q.1(a)(i) states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013 (the required date). The GPDO provides interpretation at Paragraph X that an agricultural building is a building used for agriculture and which is so used for the purposes of a trade or business. Whilst concerns have been raised by a local resident as to the viability of the business, I have not been provided with substantive evidence to support this assertion. Furthermore, this matter has not been raised by the Council as an issue and I have no reason to doubt that an agricultural trade or business is being operated from the site.
6. The Council consider that because part of the agricultural building has facilities for day to day to day living including an oven, sink, fridge, toilet, storage cupboards and a hot water cupboard, the site was not used solely for agricultural purposes on the required date. The appellant submits that the oven is a solid fuel Rayburn with a back boiler; the sink only has a cold tap and the waste water is piped into a bucket; the fridge and storage cupboards are for medicines and equipment; and the toilet is a chemical toilet. The appellant uses the facilities within the barn overnight during the lambing season only, and lives off site the remainder of the time. It is asserted that the building was in agricultural use on the required date.
7. The accommodation within the building covers a relatively small area and from my observations is at best basic, providing a small area to sit down, keep warm and make a hot drink. Whilst there was a mattress against the wall, there was no separate space for this or a bed to be placed. In the absence of substantive evidence to demonstrate otherwise, I am not convinced that the accommodation provided in this part of the building is used for anything other than for ancillary purposes to the agricultural use of the building. A material change of use of this part of the building has not occurred.
8. From my observations and the evidence before me, I find that the building is in agricultural use, and given that the evidence suggests that circumstances have not changed since the building was constructed in 2006, I have no reason to

¹ SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended

doubt that this was not the case on the required date of 20 March 2013. The Council has not raised an issue with the proposal not complying with the other circumstances set out in Paragraph Q.1 (b) – (m) of the GPDO, and as such I conclude that the proposal would constitute permitted development under Class Q of the GPDO.

Whether or not prior approval would be required

9. The Planning Practice Guidance (PPG) advises the starting premise for Class Q is that the permitted development right grants permission, subject to the prior approval requirements. The provisions of the GPDO require that where a development is proposed under Class Q (a) and Q (b), the developer must apply to the local planning authority for a determination as to whether prior approval is required in relation to several matters (Paragraph Q.2 (1) (a) to (f)).
10. The Council makes reference to Paragraph Q.2 (b) and (e) within its decision notice. Paragraph Q.2 (b) relates to the noise impacts of the development. It appears from the submitted evidence that the Council is concerned about noise from the adjacent agricultural use of the building and the effect this would have on living conditions, as opposed to the noise impacts of the proposed development. This is not covered by Paragraph Q.2 (b). In the absence of substantive evidence to demonstrate otherwise, I am satisfied that the noise impacts from the development would be minimal and acceptable.
11. However, Paragraph Q.2 (e) covers matters such as living conditions, in that it makes reference to whether the location and siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to use as a dwellinghouse. There is no definition of 'impractical' or 'undesirable' within the GPDO. However the PPG states that the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would 'not be sensible or realistic', and undesirable reflects that it would be 'harmful or objectionable'.
12. In terms of living conditions, the appellant has indicated that she would occupy the new dwelling with her partner and would continue to be involved in the breeding and rearing of sheep and cattle. The dwelling would therefore be occupied by a farm worker. The appellant has also indicated that the relationship of the dwelling to the adjoining farm building would be acceptable to her; an internal wall would separate the living accommodation from the remainder of the building which would be used for agricultural purposes. This wall could be insulated to prevent noise from the adjacent building travelling into the new dwelling.
13. Whilst I note the Council's concern regarding living conditions for general occupation, the appellant has indicated that she would have no objection to the imposition of a planning condition restricting the occupancy of the dwelling. The Council has indicated that it considers such a condition would be a suitable mechanism to address its concerns.
14. Paragraph W (13) of the GPDO allows for prior approval to be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. In this instance, I consider that a condition restricting the occupancy of the dwelling to an agricultural worker is reasonable and necessary given the relationship the new dwellinghouse would have to an agricultural building which could house livestock. An unrestricted residential use in this part

- of the building would not be acceptable because of the effect the adjacent agricultural use would be likely to have on living conditions.
15. The Council's second reason for refusal relates to its concern that the proposal would introduce a residential use into a relatively undeveloped landscape and the design of the dwelling would erode the rural character of the area. As such it considers that the location and siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to use as a dwellinghouse.
 16. The PPG states that because an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling, this is not a sufficient reason for refusing prior approval. Furthermore, the PPG makes it clear that when considering location and siting, a local planning authority should not be applying tests from the National Planning Policy Framework (the Framework) except to the extent that they are relevant to the subject matter of the prior approval. The desirability of the location or siting of the building should therefore be judged on amenity grounds against the immediate surroundings.
 17. In this respect the building is in the same location as the Council previously considered acceptable. Furthermore, the proposed alterations are limited in scale, and externally relate to the replacement of a door on the front and side elevation of the building with glazing. No further external alterations are proposed. Although there are no dwellings within the vicinity of the appeal site, the building would retain its agricultural form and appearance. The building is part of the character and appearance of the landscape and the limited alterations would not result in the building being more intrusive or harmful.
 18. In light of the above, I conclude that the location and siting of the development proposed would not make it impractical or undesirable for the change of use sought. Furthermore, subject to the imposition of a planning condition restricting the occupancy of the dwellinghouse, acceptable living conditions of the intended future occupiers of the building would be provided.

Conclusion

19. For the above reasons, and having regard to all other matters raised, the appeal is allowed and approval granted. The appellant should note that the GPDO states at Paragraph Q.2(3) that development under Class Q is permitted subject to the condition that it is completed within a period of 3 years starting with the prior approval date. Paragraph W(12) requires the development to be carried out in accordance with the approved details. It is not necessary for me to repeat these conditions. A condition restricting the occupation of the dwelling is however necessary for the reasons explained above.

R C Kirby

INSPECTOR