
Appeal Decision

Site visit made on 29 June 2015

by Joanne Jones BSc(Hons) MA MRTPI

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

Decision date: 23 July 2015

Appeal Ref: APP/L3245/W/15/3004467
66 Linley Brook, Bridgnorth, Shropshire WV16 4SZ

- 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 Mr B Millman against the decision of Shropshire Council.
 - The application Ref 14/04841/PMBPA, dated 24 October 2014, was refused by notice dated 20 January 2015.
 - The development proposed is the conversion of agricultural unit to form residential dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the proposed development as set out above is taken from the application form submitted to the Council. As described, the proposal would involve a change of use of an existing barn to a single residential dwelling by the carrying out of various works of operational development to facilitate its conversion. I have therefore determined the appeal on the basis that it seeks prior approval for development under Class Q.(a) and (b).
3. I have also taken into account the provisions of the consolidated Town and Country Planning General Permitted Development Order (GPDO) which came into force on 15 April 2015¹. However, for the purposes of this appeal the changes primarily relate to nomenclature: for example, an application made under Class MB of the previous GPDO has effect as if it were made under the new Class Q within the consolidated GPDO.

Main Issue

4. Taking into account all that I have seen and read, I consider that the main issue in this appeal is whether the appeal building is a suitable candidate for a change of use to a dwelling under the provisions of the GPDO, having regard to impact on protected species.

¹ S.I. 2015 No 596: The Town and Country Planning (General Permitted Development) (England) Order 2015

Reasons

5. The appeal structure is a traditional brick and tile agricultural building, with stable doors to the front and a lean-to type structure to the rear. Internally the barn is divided into three stalls, with a hay loft above. Whilst the building is structurally sound, there are various cracks within the walls and gaps within the doors and roof tiles.
6. The application was refused by the Council because no ecological surveys had been provided to assess the likely impact of the proposal on protected species, which have a reasonable likelihood of being effected by the proposal. No surveys have been provided with the appeal documentation.
7. In this regard the appellant has brought to my attention an appeal decision² said to be made in similar circumstances, of which an extract is presented in the appellant's Grounds of Appeal. In that case the Inspector considered that a bat survey had no relevance and that the issue of bats would fall to be considered by other legislation.
8. Whilst I acknowledge consistency in such matters, I am mindful that although protected species are not specifically referred to in the GPDO, regulation 9 of 'The Conservation of Habitats and Species Regulations 2010' would still apply. This states that the "*competent authority must exercise their functions which are relevant to nature conservation... so as to secure compliance with the requirements of the Directives*". Accordingly, competent authorities must consider the Directives in making decisions relating to any of their planning functions.
9. Therefore, even though there is no "reminder" in the GPDO, European protected species must still be taken into account. As I have been alerted to the Council's concerns about protected species, it is incumbent on me to consider whether there is a reasonable likelihood of protected species being present and affected by the development.
10. From what I saw on my site visit the appeal premises would offer a suitable habitat for bats and this position is supported by the comments made by the Council's Ecologist, whose professional opinion I afford significant weight. Bats are protected species and I cannot give approval without adequate evidence to be satisfied the Regulations won't be breached and subsequently being able to establish if works may be licensed.
11. In the light of the strict protection afforded to bats, and that survey information is missing, I am not satisfied that there would not be a material adverse effect on the protected species. As such, I conclude that the proposed works would fail to satisfy the requirements of paragraph Q.2(e). Accordingly, it would not be permitted development as set out under Class Q of the GPDO.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

Joanne Jones

INSPECTOR

² APP/B3438/A/14/2225913