
Appeal Decision

Site visit made on 3 September 2019

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2020

Appeal Ref: APP/L3245/W/19/3228511

Grove Barn, The Grove, Pitchford Road, Condover, Shrewsbury, Shropshire SY5 7DF

- 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, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr and Mrs S Jones against the decision of Shropshire Council.
 - The application Ref 18/04077/PMBPA, dated 29 August 2018, was refused by notice dated 12 November 2018.
 - The development proposed is an application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have been informed by the agent in writing that Mr Jones who was one of the appellants, has sadly passed away. Further, that Mrs Jones (the other appellant) is responsible for the estate. Therefore, the appeal proceeds on this basis.
3. The description of the development proposed as set out on the appellants' application form is unclear. The Council's decision notice describes the proposal as follows: '*Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use*'. I have used this description in the above heading as it more accurately reflects the development for which prior approval is sought and I shall determine the appeal on this basis.

Background Information

4. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GDPO) sets out that development is classed as permitted development if it consists 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. This is subject to a number of situations where such development is not permitted, listed under paragraph Q.1, and, subject to compliance with Conditions, as set out under paragraph Q.2.
5. In this case, having regard to the Council's submissions it has raised issues in relation to the size of the "curtilage" of the agricultural building and the exclusions in paragraphs Q.1(a) and Q.1(i). The Council has not raised any matters in respect of the Conditions in paragraph Q.2. and I have no reason to take a different approach.
 6. Paragraph Q.1(a) of the GPDO is clear that development is not permitted if '*...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*'. Based on the appellant's application form, for the purposes of this appeal the relevant date is 20 March 2013.
 7. Paragraph X of the GPDO says that for the purposes of Part 3 "curtilage" means, (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.
 8. Paragraph Q.1 (i) of the GPDO states that development under Class Q(b) would consist of building operations other than— (i) the installation or replacement of— (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.

Main Issue

9. Against that background, the main issue is: Whether the proposed change of use constitutes permitted development pursuant to Schedule 2, Part 3, Class Q of the GPDO, having particular regard to: (1) whether the site was used solely for an agricultural use as part of an established agricultural unit on the required date; (2) whether the size of the proposed curtilage exceeds that allowed; and (3) whether the building operations are reasonably necessary for the building to function as a dwellinghouse.

Reasons

- (1) Whether the site was used solely for an agricultural use as part of an established agricultural unit on the date required.
10. It is for the appellant(s) to demonstrate that on the relevant date, the site was used solely for an agricultural use as part of an established agricultural unit, in compliance with Paragraph Q.1(a).
 11. Evidence submitted includes an undated but signed letter from Mr and Mrs, Jones confirming the purchase of a 'Agricultural farm building and lane' from a Mr George Jones on the 29 January 2016. Further, that this building was sub-let by Mr George Jones to Meadow Bank farm for the purpose of the storage of cows from period 2010-2016. At appeal the appellants submitted a further

similar letter¹ but this is also signed by representatives of Meadow Bank farm. Although these letters refer to an 'Agricultural farm building' this is not clearly identified, for example by way of a supporting plan. Moreover, although the letters advise that the building was sub-let for the purpose of the storage of cows between 2010-2016 to Meadow Bank farm, they do not clearly evidence that the building subject of this appeal was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013.

12. An undated photo which is said to have been taken in 2016 by the appellants, following the purchase of Grove Barn which includes the appeal site, shows part of the internal arrangement of the agricultural building. As this was taken after the 20 March 2013, it adds no weight to the appellants' case. There is also reference to an Email dated 5 October 2018, however a copy of this is not before me.
13. A letter² from an immediate neighbour to the site confirms use of 'panel sided barn' building from the first summer after 2010 and for several years afterwards was used to house calves in association with a nearby dairy farm. Nonetheless, this letter does not clearly identify the use of the building on 20 March 2013.
14. For the foregoing reasons, I conclude that the available evidence fails to show that on the 20 March 2013 the site was used solely for an agricultural use as part of an established agricultural unit. The proposal therefore does not comply with criteria under Q.1(a) of Class Q.

(2) The size of the proposed curtilage.

15. The application form for the proposal identifies that the area of land within its curtilage which is proposed for change of use is 349 sqm inclusive of garden area at 122 sqm. This area is shown on the 'Proposed Block Plan' – drawing no. 71044:1004 submitted with the application. This includes a proposed garden to the north-east of the building, land to the south-east and an area to the south-west shown for parking. Even if I were to accept that the garden is incorrectly annotated on this drawing and actually measures 118sqm to match the area occupied by the building, the total land immediately beside or around the building exceeds the floor area covered by the building.
16. Consequently, on this issue, I conclude that the proposal does not meet the requirements of Class Q of the GPDO with regard to the definition of curtilage in Part 3, Paragraph X.

(3) Whether the building operations are reasonably necessary for the building to function as a dwellinghouse.

17. As established within the PPG³, building works are allowed under the right permitting agricultural buildings to change to residential use, but the right assumes that the agricultural building is capable of functioning as a dwelling. Building operations can include those that would affect the external appearance of the building; though it is not the intention to allow rebuilding work that would be go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, only when the existing building is already

¹ Letter from appellants submitted with 'Reply to Shropshire Councils Statement of Case' dated 12 November 2018

² Letter from Tom Lowe dated 1 October 2018

³ Paragraph: 105 Reference ID: 13-105-20180615

- suitable for conversion to residential use would it be considered to have the permitted development right.
18. The building proposed to be converted comprises of a steel portal frame substructure on a concrete floor. Along three of its sides the frame is infilled with blockwork walls that are topped with timber cladding. The front of the building incorporates three large doors. The roof is constructed from asbestos sheeting over steel purlins.
19. On the basis of the submitted information, to facilitate the change of use the existing substructure of the building is largely to be retained along with the floor and blockwork walls. The extent of the proposed works includes the infilling of any open sides of the building with blockwork. Timber frame insulated walls would then be added to these internally and covered with fire lined board and skim. Externally, the building is to be timber clad and would include new doors and windows. The roof purlins are to be replaced as would be the existing roof material for plain tiles. In light of this, the extent of the proposed works would fall within the provisions of Class Q.1(i)(bb), and do not amount to rebuilding work.
20. The Design and Access Statement (DAS) states that no structural work is considered to be necessary to convert the building for residential use. The DAS also incorporates a 'Structural Appraisal' (SA) this concludes that the barn is in very good condition with no obvious movement. Further, that removing the metal doors and infilling with blockwork will provide additional structural bonding and strength to the fabric of the building.
21. While there is nothing to suggest that the SA has been undertaken by an Engineer or any other suitably qualified person, from my visit and taking account of all the available information, I am satisfied that the underlying substructure appears to have maintained its integrity. Furthermore, the additional walls which are supported by Class Q.1(i)(bb) would strengthen this.
22. In light of the foregoing reasons, I am satisfied that the extent of works proposed would be reasonably necessary for the building to function as a dwellinghouse. Notwithstanding this, I have also found that the proposal does not meet the definition of curtilage as defined in Part 3, Paragraph X of the GPDO and also does not comply with criteria under Q.1(a) of Class Q of the GPDO. Consequently, the proposed change of use is not permitted development pursuant to Schedule 2, Part 3, Class Q of the GPDO.

Conclusion

23. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR