
Appeal Decision

Site visit made on 18 January 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 26th January 2017

Appeal Ref: APP/A2335/W/16/3160948

Barn at Field No 2187, Yealand Conyers, Lancaster LA5 9SW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant prior approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mrs C Winder against the decision of Lancaster City Council.
 - The application Ref 16/00521/PAA, dated 15 April 2016, was refused by notice dated 23 June 2016.
 - The development proposed is change of use of agricultural building into a single dwellinghouse with associated curtilage and installation of treatment plant/filtration system.
-

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for the change of use of agricultural building into a single dwellinghouse with associated curtilage and installation of treatment plant/filtration system at Barn at Field No 2187, Yealand Conyers, Lancaster LA5 9SW in accordance with the details submitted pursuant to Schedule 2, Part 3 Class Q of the GPDO through application Ref 16/00521/PA, dated 15 April 2016 and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: L3328 10, L3328 11 and L3328 12.
 - 2) The presence of any significant unsuspected contamination that becomes evident during the construction of the development hereby permitted shall be brought to the attention of the Local Planning Authority. Any mitigation measures required shall be agreed in writing with the Local Planning Authority and thereafter implemented in accordance with the agreed measures

Background

2. In accordance with the requirements under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order (England) 2015 (GPDO), the application subject of this appeal sought a determination by the Council as to whether prior approval was required in relation to the matters listed in paragraph Q.2(1) of the GPDO.
-

3. Class Q of the GPDO permits the change of use of an agricultural building and any land within its curtilage to a residential use, along with building operations reasonably necessary to convert the building.
4. Paragraph Q.1(a) 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— (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, or (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins.
5. There is no dispute between the parties that the development would comply with the criteria of Paragraph Q.1(b)-(m). On the evidence before me, I have no reason to come to any alternative view. Development permitted under Class Q is subject to the condition that before commencement, an application must be made to determine whether prior approval is required in respect of the matters referred to in (a)-(f) of paragraph Q.2(1). The Council has raised no concerns in respect of the transport and highway, noise, contamination, flooding, location or design impacts of the development. I have, on the evidence before me, no reason to disagree.
6. The Council nevertheless indicates that works have been carried out to the building which has resulted in the abandonment of the agricultural use and therefore the proposal would not accord with Class Q.

Main Issue

7. The main issue is whether the proposed development would accord with the requirements for development permitted under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

8. The appeal site is a stone barn which is largely agricultural in appearance. It is located within grassed fields close to the A6 road. The appellant indicates that the barn was part of a larger holding of around 90 acres that operated as a beef rearing cattle enterprise which ceased around 2008/2009. There is no contradictory evidence before me to suggest that is not the case. Given the physical nature of the building and its location, on the balance of probability, I consider that the field within which the barn is located, and the barn itself, has been used at some time in the past for an agricultural use.
9. Planning permission was granted in 2008¹ for the change of use of the barn to holiday accommodation. Although I have been presented with no formal documentation, an e-mail from the Council dated November 2015 suggests that the permission was not implemented and has now expired. In the absence of any contrary evidence, I have no reason to conclude that the building has been used for holiday accommodation at any time.
10. It was apparent from my site visit that works had been undertaken on the building including new internal walls, steel joists, a concrete floor and timber roof joists. The appellant considers that such works are not development for the purposes of Section 55 of the Act. I have no reason to disagree. It was

¹ 08/00873/CU

also evident that roof lights had been installed into the building. The appellant indicates that external repair and refurbishment works were undertaken to the building around 2008/2009. The Council indicates that such works are unauthorised. However, whilst the lawfulness of the alterations to the barn, or indeed the use of it, is not for me to determine under a section 78 appeal, there is no evidence before me to suggest that the rooflights and those works have facilitated the use of the building for any other purpose since the agricultural use ceased.

11. The Class Q rights cannot be exercised where works for the building, extending or altering of a building, or the installation of additional or replacement plant or machinery for the purposes of agriculture under the existing agricultural permitted development rights, have been carried out on the established agricultural unit since 20 March 2013. However, there is no evidence before me to suggest that such works have been carried out since that date.
12. As a result, whilst the agricultural use may have been abandoned, on the evidence before me, I see no reason to conclude that the barn was not last in use solely for an agricultural use as part of an agricultural unit before 20 March 2013. The proposal would therefore accord with the limitations at paragraph Q.1(a) and would constitute permitted development in respect of Class Q of the GPDO.

Conditions

13. Paragraph Q.2.(3) of the GPDO states that permitted development is subject to a condition that development permitted under Class Q must be completed within a period of 3 years starting from the prior approval date. As such, no time limit condition is necessary or appropriate. Paragraph W(12) requires the development must be carried out in accordance with the details approved. For clarity and to provide certainty, I have imposed a condition to this effect.
14. The Phase 1 desk study by Meridian Geoscience Ltd has not identified any potential sources of contamination. However, there remains a risk of contamination from unrecorded activities and therefore an unforeseen land contamination condition as suggested by the Council is therefore necessary. The Highway Authority suggests a range of conditions should be imposed, however, has provided no indication of what conditions it considers necessary. In any event, there is no evidence before me that proposal would have harmful effects on highway safety such that conditions are necessary to make the development acceptable.

Conclusion

15. For the reasons given above I conclude that the proposal satisfies the prior approval requirements of the GPDO with regard to being permitted development under Schedule 2, Part 3, Class Q for change of use from an agricultural building to a dwelling (Class C3). Therefore, the appeal should be allowed and prior approval is granted subject to conditions.

Jason Whitfield

INSPECTOR