



Appeal Decision

Site visit made on 17 August 2020

by **Ben Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 August 2020

Appeal Ref: APP/T3725/W/20/3248573

Agricultural building, Pit Hill, Bubbenhall, Warwickshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the failure to give notice within the prescribed period for development proposed under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr M and Mrs S Grimes against the decision of Warwick District Council.
 - The application Ref W/19/1531 is dated 4 September 2019.
 - The development proposed is the change of use of an agricultural building to 5 no. dwellinghouses.
-

Decision

1. The appeal is allowed and planning permission is deemed to be granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q Paragraph Q(b), of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)(as amended) for the change of use of an agricultural building to 5 no. dwellinghouses at the agricultural building, Pit Hill, Bubbenhall, Warwickshire in accordance with the application W/19/1531 made on 4 September 2019, and the details submitted with it including plan no's 1313-0201-03, 1313-0502-03 and 13130501-01, pursuant to Article 3(1) and Schedule 2, Part 3, Paragraph Q.2(1). The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2(3) of the GPDO.

Procedural Matters

2. This appeal relates to Schedule 2, Part 3, Class Q of the GPDO. Class Q (a) permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a Class C3 use (dwellinghouse). This provision also includes, at (b) development referred to in Paragraph (a) together with any building operations reasonably necessary to convert the building.
3. Planning Practice Guidance advises that the schedule grants planning permission, subject to the prior approval requirements under paragraph Q.2(1). Paragraph W. of the GPDO, provides the procedure for applications for prior approval under Part 3.
4. The Order does not contain a requirement or provision for applications to be validated, but Paragraph W.(2) requires an application to include a) a written description of development, b) a plan indicating the site and showing the proposed development, c) the developer's contact details, d) the developer's

email address and e) a flood risk assessment if in a flood risk area. Paragraph X defines the 'site' as being the building and any land within its curtilage.

5. Paragraph W.(11) explains that development must not begin until either a) the Local Planning Authority provides a written notice that prior approval is not required, b) the Local Planning Authority provides written notice that prior approval is given, and c) the expiry of 56 days from the receipt of the application without the authority notifying the applicant as to whether the prior approval is given or refused.
6. The contention between main parties is whether the submitted plans indicate the site and show the proposed development clearly and sufficiently to satisfy the requirements of the GPDO.

Main Issues

7. Consequently, the main issue is whether planning permission is deemed to have been granted.

Reasons

8. The site, the subject of this appeal, is within an agricultural holding. The barn, proposed for conversion, is located on the southeast side of a yard area and used to store various agricultural equipment and machinery. The building is a steel portal frame construction with walls consisting of corrugated metal sheeting and breeze block. The floor is a consistent concrete surface.
9. The submitted plans consist of a site location plan, layout plans and elevations. The layout and elevation plans show the existing and proposed details. The location plan shows that the barn would be subdivided into five dwellings. This would also include a small front garden area and parking spaces within a second external space to the rear. It also shows that parts of the barn would be demolished. This would be to shorten the structure and to separately create a recessed alcove for the middle three units. These plans create a coherent and consistent illustration of how the proposal would be constructed.
10. The application was received 4 September 2019. Following review, the Council determined that the plans were inconsistent and made the application invalid 17 September. The Council considers that the location plan does not properly identify the site, that the site should be outlined in red with a blue line around other land in the applicant's ownership. It has also expanded this to identify the area to be demolished is not within a redlined site. However, whether or not the application contained the necessary information, as set out in paragraph W.(2)(b), the choices open to the Council are clear, to either accept the information or refuse the application under Paragraph W.(3).
11. Furthermore, Paragraph W.(2)(b) does not require a red or blue-lined plan around the site, it simply says that the plan should indicate the site and show the proposed development. Therefore, in consideration of the submitted plans the extent of the proposed development is clear, without evidence of inconsistency. Hence, the location of any redline is moot. Consequently, the proposal has satisfied the requirements of Paragraph W.(2).
12. On the information provided and in mind of the wording and requirements of the Order, it is concluded that the 56 days should be considered as running from the acknowledgement date of the Council's receipt of the application, 4

September, and 'day 1' being the day following the date of receipt. This application would have therefore expired 31 October. In the absence of a written notice under Paragraph W.(11), by that date, planning permission is deemed to have been granted.

13. The Council's failure to determine the application within the statutory period means that I cannot address whether the proposed barn conversion is in fact permitted by the GPDO. In other words, I cannot determine whether it complies with the limitations and conditions imposed on PD under Class Q. Likewise, and although interested parties have made representations on the merits or otherwise of the proposed development, I cannot address whether prior approval ought to be granted given the submitted details of matters such as the suitability of location, design, highway impacts or flooding.
14. Paragraph W.(12) of the GPDO sets out standard conditions requiring that when Paragraph W.(11)(c) applies development must be carried out in accordance with the details provided in the application. Also, Paragraph W.(13) provides for additional conditions to be attached that are reasonably related to the subject matter of the prior approval. However, since finding that planning permission is deemed to have been granted, there is no facility to attach further conditions in addition to the standard ones.
15. The development can therefore lawfully proceed if constructed or carried out in accordance with the submitted plans, and with the conditions and limitations imposed on the planning permission granted by the GPDO.
16. For the reasons given above, I conclude that the appeal is allowed.

Ben Plenty

INSPECTOR