



Appeal Decision

Site visit made on 12 March 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2019

Appeal Ref: APP/V2635/W/18/3209994

Unit rear of Charolais, Low Road, Pentney, King's Lynn, Norfolk PE32 1JF

- 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 & Mrs S Voutt against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 18/00397/PACU3, dated 27 February 2018, was refused by notice dated 23 April 2018.
 - The development proposed is change of use of rabbit meat production unit to 2 dwellinghouses.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for a change of use of a rabbit meat production unit to 2 dwellinghouses at Unit rear of Charolais, Low Road, Pentney, King's Lynn, Norfolk PE32 1JF in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2(1) of the GPDO, through application Ref 18/00397/PACU3, dated 27 February 2018. 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 and subject to the additional conditions listed at the end of this decision.

Procedural Matters

2. The description of development has been clarified and amended, in agreement with both the Council and the appellant, during the course of this planning appeal. The appeal proposal was re-publicised on the basis of the description stated above. This was to ensure that all interested parties were aware that 2 dwellinghouses are indeed proposed, rather than the single dwellinghouse indicated on the Council's Decision Notice.
3. For the avoidance of doubt, the application made includes details of both the change of use of the building and the building operations necessary to convert the building. I have considered the appeal on this basis.

Application for costs

4. An application for costs was made by Mr S Voutt against King's Lynn and West Norfolk Borough Council. This application is the subject of a separate Decision.

Main Issue

5. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

6. Paragraph Q.1 of the GPDO sets out various requirements that, if not met, result in development not being permitted by Class Q. The Council refused to grant prior approval on the sole basis that they consider the proposal fails to comply with Criterion Q.1(a) of the GPDO, which states agricultural use requirements, and thus does not constitute permitted development. From the evidence before me, the main parties to this appeal do not dispute that the proposal meets all other requirements as set out under paragraph Q.1. I have considered the appeal on this basis.
7. As set out under Criterion Q.1(a) of the GPDO, development is not permitted if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or 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.
8. It is acknowledged by both main parties to this appeal that the appeal building is not currently used for agricultural purposes, nor was it so on 20 March 2013. From the evidence before me, the building was last used for such purposes in 1992 when it is understood that rabbit meat production at the site ceased. As set out in the GPDO, an established agricultural unit means agricultural land occupied as a unit for the purposes of agriculture. I am content from the evidence before me, that, when last operated to produce rabbit meat, the appeal site was used solely for an agricultural use as part of an established agricultural unit.
9. On this basis and in accordance with the requirements of Criterion Q.1(a), it is important to understand how the appeal building has been used since rabbit meat production ceased in 1992. Its past agricultural use must constitute the building's last use for the relevant requirements of Criterion Q.1(a) to be appropriately met. The appellant has referred to the appeal building having been used for domestic storage purposes, yet only to a limited degree and extent such that a change of use of the building has not resulted. The Council consider that this demonstrates that the appeal building has been used for purposes alternative to agricultural trade or business. Furthermore, the Council has noted that the building is large and weatherproof such that it is reasonable to consider that the building has been actively used for domestic purposes since the cessation of the agricultural business on the site.
10. Whilst in relatively good condition, the building is simple and rustic in form and appearance. From internal inspection, some domestic paraphernalia was present. This consisted of such items as bicycles, firewood and a small chicken coop. These items occupied only a small percentage of the overall internal floorspace, the extent of domestic storage/activity was limited therefore. Otherwise, the inside of the building was predominantly vacant and large portions of it appeared, due in part to its undisturbed soiled flooring, not to have been regularly visited in recent times. To further substantiate this finding, I noted that metal wires, which I understand relate back to former rabbit meat production activities, continue to be hung from the roof structure across much of the building's internal area.

11. My single visit inside the building cannot be relied upon to confirm precisely the activities carried out inside since 1992, and I acknowledge that there is limited evidence before me to clearly indicate how the building has been used over the subsequent intervening period. Equally however, there is no alternative evidence before me to confirm that the extent of domestic storage has ever been notably greater since rabbit meat production ceased at the site. On this basis, and following my own site inspection, I do not consider that the presence of limited domestic paraphernalia has resulted in a change of use of the building.
12. I note that the Council has referred in evidence to a February 2018 appeal decision at North Walsham, Norfolk, where a proposal made under Schedule 2, Part 3, Class Q of the GPDO was dismissed. However, that appeal was made on different terms and would have been accompanied by different supporting evidence. The appellant in that case sought to demonstrate that the particular barn in question was in use as part of an established agricultural unit on 20 March 2013, which is not the case here. I am indeed sufficiently satisfied, from consideration of the evidence before me, that the appeal building made up part of an established agricultural unit when it was last actively used in an agricultural capacity.
13. A Certificate of Lawful Development, granted in December 2013, has also been referred to in evidence. I am of the understanding that this certified the lawful occupation of the dwelling (Charolais) on an unrestricted basis (as opposed to being limited to persons only employed in agriculture). Whilst this provides assurances that the former rabbit meat production use at the appeal site has indeed ceased, it does not automatically follow that the appeal building's status or lawful use is altered. Indeed, the building appears physically separate to Charolais and, as discussed above, I am content that any small-scale domestic use of the appeal building has not resulted in a change of its use.
14. For the above reasons I conclude that the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Other Matters and Conditions

15. It has been queried by a third party to this appeal whether the building is suitable for habitation. It is stated in the Council's officer report that, on the basis of the information submitted, it would appear that the building is capable of conversion without any structural elements being required. From the evidence before me and my own inspection, I find no reason to disagree. I also note that paragraph Q.1(i) allows for some building operations to be undertaken to the extent reasonably necessary for the building to function as a dwellinghouse.
16. The provisions of paragraph Q.2 of the GPDO require the local planning authority, where development is permitted, to assess the proposed development based on several different matters. These are the transport and highways impacts of the development, noise impacts, contamination risks, flooding risks, the design or external appearance of the building and whether the building's location makes it otherwise impractical or undesirable for the proposed residential use.
17. I do not consider, with respect to the transport and highways impacts of the proposal, that the introduction of 2 dwellings would lead to an undue increase

in traffic upon the local road network. This is notwithstanding the single lane nature and potential maintenance requirements of Low Road. I note that the Council, nor the Highway Officer, has not raised concerns in this context. I also note that, given the limited extent of building operations proposed, associated construction traffic would be expected to be minimal.

18. Paragraph W (13) under Schedule 2, Part 3 of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. It would be reasonable in the interests of highway safety to apply a condition (as suggested by the Highways Officer) to secure the provision of the intended access/parking/turning/waiting arrangements before first occupation. I am content from the evidence before me that the access could be installed without prejudicing or interfering with any nearby ditch or dyke and note that neither has the Council raised any concerns in this regard.
19. With regard to contamination risks, the Council's Environmental Quality Officer has highlighted the potential for asbestos to be contained within the building's roof. A condition securing that a survey be undertaken and action plan be formulated in this regard would be a reasonable requirement in the interests of guarding against any potential harm to human health.
20. With respect to flooding risks, I acknowledge that drainage issues and past instances of flooding on the site and nearby have been referenced by third parties to this appeal. These reported issues and instances have not been evidenced in any detail however and it is apparent that the site is located within Flood Zone 1 (the lowest risk zone). The Council has confirmed that there are no identified flood risks raised by the application. In such circumstances, it is not reasonable or necessary to secure full details of the intended surface water and foul water drainage arrangements by condition. There are relevant drainage requirements contained within the Building Regulations, against which the proposal would also need to be assessed.
21. Notwithstanding the rural location of the site, the building's location would not make it otherwise impractical or undesirable for the proposed residential use. I note that the Council has not raised concerns in either a noise or design/external appearance context and I find no reason to disagree with their assessment in these regards. To ensure certainty, noting that building operations form part of the proposal, a condition setting out the approved plans is required.
22. Concerns raised with respect to the site's position behind frontage development, to potential loss of privacy, and to other applications that have been (or could be) made in the locality are not relevant to my determination of this appeal. Unlike where an application for planning permission has been submitted, my considerations are necessarily limited to the provisions of Schedule 2, Part 3 of the GPDO and, more specifically, to the relevant matters listed under paragraph Q.2.

Conclusion

23. For the reasons set out above, the appeal is allowed and approval is granted.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (Scale 1:10,000); OS Plan (Scale 1:1250); 103; 102.
- 2) Prior to the first occupation of the development hereby permitted the proposed access / on-site car parking / turning / waiting area shall be laid out, levelled, surfaced and drained in accordance with the submitted Proposed Block Plan (Ref 103) and retained thereafter for that specific purpose.
- 3) Prior to the commencement of the development hereby permitted, a survey specifying the location and nature of asbestos containing material and an action plan detailing treatment, safe removal and disposal of asbestos containing materials shall be submitted to and approved in writing by the local planning authority. The details of the approved action plan shall be fully implemented prior to the first occupation of each dwelling hereby permitted and evidence shall be kept and made available for inspection until the local planning authority has confirmed that the works have been implemented.

