



Appeal Decision

Site visit made on 28 July 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 10th August 2020

Appeal Ref: APP/N2535/W/20/3248327

Chapel House, Bleasby Moor, Market Rasen, Lincolnshire LN8 3QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant approval required under Article 3(1) and 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 SJ White against the decision of West Lindsey District Council.
 - The application Ref: 139778, dated 23 July 2019, was refused by notice dated 18 September 2019.
 - The development proposed is the prior notification of proposed change of use from agricultural building to a dwelling house.
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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 (as amended) (GPDO) for the change of use from agricultural building to a dwelling house at Chapel House, Bleasby Moor, Market Rasen, Lincolnshire LN8 3QL, in accordance with the terms of the application Ref: 139778, dated 23 July 2019. 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 following additional conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved drawings: Figure 2 Revised Site Plan with the red line amended (Grounds of Appeal Statement); LDC253902 Proposed Drawings - Proposed Plans and Elevations drawing only.
 - 2) The development hereby permitted shall not be brought into use until the access drive has been surfaced in accordance with details to be first submitted to and approved in writing by the local planning authority. The drive shall thereafter be maintained.

Procedural Matters

2. I have taken the description of development from the appeal form and decision notice, in the interests of precision.
3. An amended red line boundary has been submitted with the appeal. The boundary has been reduced to exclude the driveway. The substance of the proposal and the core issues relating to its suitability remain to a large extent the same. I therefore consider that the proposal is not so fundamentally changed that to grant it would deprive consultees of opportunity to comment.

Having regard to these factors, I have assessed the case based on the amended boundary as illustrated in the drawing listed above¹.

Application for costs

4. An application for costs was made by SJ White against the decision of West Lindsey District Council. This application is the subject of a separate decision.

Background and Main Issues

5. Class Q of the GPDO permits the change of use of an agricultural building to a dwelling, and building operations reasonably necessary to convert it. Paragraph X of Schedule 2, Part 3 of the GPDO defines an 'agricultural building' as one used for agriculture and so used for the purposes of a trade or business. An 'established agricultural unit' is defined in Paragraph X as agricultural land occupied as a unit for the purposes of agriculture.
6. Paragraph Q.1(a) of Schedule 2, Part 3 of the GPDO 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 on the 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. Whether or not the appeal building was an 'agricultural building' on or before the relevant date is a matter of fact and degree based on the particular merits of the case and the evidence presented.
7. The Council are satisfied that the proposal meets all of the criteria contained in Class Q apart from Paragraph Q.1(a) of Schedule 2, Part 3 of the GPDO. Furthermore, it has not taken issue with the matters listed for consideration in Paragraph Q.2 under that part of the GPDO. Therefore, if I find that the proposal does not offend Paragraph Q.1(a) prior approval should be permitted.
8. Thus the main issues are:
 - a) whether the building was within an agricultural use on the date necessary for it to benefit from the permitted development rights conferred by Class Q of the GPDO, and
 - b) whether the curtilage of the proposal satisfies the definition of Class Q permitted development.

Reasons

Agricultural use

9. The site comprises a single storey building, which was part of a piggery unit, and external space to the side. The proposal would change the building into a three-bedroom dwelling.
10. A similar building adjoins the appeal building. The adjoining block contains workshop equipment to the front, with empty animal pens enclosed with mesh towards the rear. A breeze block wall joins the two buildings. The other building was granted permission in 1984² for change of use to boarding kennels and a cattery, for a temporary period of three years.

¹ Figure 2 Revised Site Plan with the red line amended (Grounds of Appeal Statement).

² Planning Application Ref: W58/880/83, permission granted 3 April 1984.

11. Whether the site was solely used for an agricultural use as part of an established agricultural unit, on the appropriate date, is a matter of dispute between the main parties.
12. The Council highlights the absence of an agricultural holding number, However, while such information may help to illustrate agricultural use, it is not specifically required by the GPDO to satisfy the definition of permitted development under Class Q. As such, its absence does not disprove such use.
13. It is not disputed that the appeal building was previously part of a piggery unit. The planning permission in April 1984 for change of use of the attached building, which was part of the pig unit, points to the piggery operation on the site being discontinued before 20th March 2013.
14. The single-storey appeal building has breeze block walls and a corrugated roof. During my site visit, I saw that it contains intact livestock pens with troughs. One of the pens had straw bales in it and the others were empty. The building is agricultural in its fabric and appearance.
15. There is no substantive evidence before me to indicate that the building has had a lawful use other than agriculture. Therefore, on the balance of probabilities, I find that the appeal building, whilst not in use on 20 March 2013, has had a lawful dormant use for the purposes of an agricultural business since before April 1984.
16. I therefore conclude that the appeal building was within an agricultural use on the date necessary for it to benefit from the permitted development rights conferred by Class Q of the GPDO.

Curtilage

17. The GPDO sets out that Class Q permitted development includes appropriate change of use of a building and any land within its curtilage. Paragraph X of Schedule 2, Part 3 of the GPDO sets out that, for the purposes of Class Q, the definition of 'curtilage' means either 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.
18. The curtilage within the amended red line boundary would be no larger than the land area occupied by the building. As such, the curtilage definition in Paragraph X is met.
19. Consequently, the appeal site meets the required definition for permitted development under Class Q.

Other Matters

20. A piggery unit is not in operation in the adjoining building, and there is no evident prospect of it, or a kennel and cattery use resuming. The Council considers the adjoining unit to be redundant, with no potential for noise and disturbance for the occupiers of the proposed dwelling. I find no reason to take a different view.
21. The access road through the hamlet in which the site is located is single lane. Nevertheless, highway safety is not identified as a concern by the Local

Highway Authority. Moreover, the modest scale of proposed development would limit its impact, and not result in significant risk in this respect.

22. I appreciate residents' concern about the effect of development on the character of the hamlet in which the site is located. Nevertheless, the modest scale of the proposed development would not significantly change this character. Furthermore, each application and appeal has to be assessed on its own merits, and given my conclusion regarding the effect of the proposal, I do not consider that a harmful precedent would be set.
23. A scheme for foul and surface water drainage will be addressed under Building Regulations.

Conditions

24. The conditions suggested by the Council have been considered against the tests of the National Planning Policy Framework and advice provided by national Planning Practice Guidance. They have broadly been found to be reasonable and necessary in the circumstances of this case. A surfacing condition is also attached.
25. A condition relating to completion of development is necessary in the interests of certainty. I attach a condition specifying the approved drawings to ensure precision. A condition relating to surfacing is necessary in the interests of highway safety.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed.

William Cooper

INSPECTOR