
Appeal Decision

Site visit made on 18 February 2015

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 7 April 2015

Appeal Ref: APP/H0738/A/14/2227055

Land at Woodside Farm, Wynyard Road, Thorpe Thewles, Stockton on Tees

- 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 MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
 - The appeal is made by Mr & Mrs Phil and Pauline Wood against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 14/1618/PDA, dated 10 June 2014, was refused by notice dated 5 August 2014.
 - The development proposed is the change of use of an existing agricultural building to a dwelling house (Use Class C3) with external alterations (fenestration). No change to siting or location of the building.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the submission of the appeal, national Planning Practice Guidance (the Guidance) has been updated, in respect of '*Permitted Development rights for the change of use of agricultural buildings*'. However, both the appellant and the Council have been provided with the opportunity to make further comments based upon the new paragraphs which have been added to the Guidance. I have therefore determined this appeal with reference to the Guidance as updated.

Main Issue

3. The main issue is whether the agricultural building is capable of conversion to a dwelling in accordance with the extent of works set out as permissible as defined in condition MB.1(i) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

Reasons

4. The appeal relates to an existing building and its curtilage, which the appellant has indicated is located within the agricultural holding of Woodside Farm. The existing building comprises a steel frame barn incorporating corrugated steel sheet walls with brickwork on the lower sections, a steel sheet roof, and a concrete floor. At the time of my site visit the building was in use for the storage of large bags of agricultural fertiliser, with the adjacent land in use for the storage of various items of farm machinery.

5. Schedule 2, Part 3, Class MB(a) of the Town and Country (General Permitted Development) Order 1995 (as amended) (GPDO) defines development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and building operations reasonably necessary to convert the building to a use falling within C3 (dwellinghouses) as permitted development. In this respect, the Council has concluded that the proposals would not be in accordance with paragraphs MB.1 (a) and (i).
6. Paragraph MB.1(a) sets out that development is not permitted if "*the site was not used solely for an agricultural use, as part of an established agricultural unit, on 20th March 2013*". The Council has highlighted that no evidence has been provided to support the contention that the building was linked to an established agricultural unit on 20th March 2013. The appellant has subsequently provided a copy of the Rural Land Register Map dated 2nd May 2012, which the appellant has indicated demonstrates that the appeal building was located within an agricultural holding of approximately 72 hectares. Furthermore, the appellant has provided the Holding Number of the unit, and testimony from a third party, an agricultural supplier, that the barn has been in use "*for many years*" for the storage of the fertiliser which the company delivers.
7. In reaching my conclusion on this issue, I have carefully considered the Council's stated position in respect of the limited use of the Rural Land Register Map as a means of demonstrating the agricultural use of the site, and the appellant's submissions on the same. I have no doubt that the building was being used for agricultural purposes at the time of my site visit, and that it was located within an agricultural holding when the preparation of the submitted Rural Land Register Map was undertaken. Whilst the submitted evidence, including the written testimony, does not conclusively demonstrate that the building and land were in an agricultural use on 20th March 2013, I note that the Council has not been able to produce any decisive evidence on this matter to the contrary. I am therefore satisfied that on the balance of probability that the building and land would have been in an agricultural use at that time.
8. Turning to Paragraph MB.1(i), this states that development is not permitted where it "*...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*". Furthermore, partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph MB.1(i)(i), would also be permissible.
9. The extent of the works as described by the appellant would include the removal of the existing steel walls, and roof materials, but with the existing steel frame and brick/block basework remaining. The appellant has indicated that the steel frame would then be bricked up within the cavity wall and a new roof provided, with the installation of windows and doors in the various elevations. I am satisfied that the proposed works would not result in any material extension to the building beyond the external dimensions of the existing building.

10. The Council has concluded that the overall extent of the works that would be required to facilitate the conversion of the building to a dwelling would be beyond that which could be described as “reasonably necessary”, and that the planning application forms have indicated that the conversion would also be dependent on the need to incorporate underpinning. Whilst I have had regard to the appellant’s disputing of the absolute necessity for such works, I have also been mindful of Paragraph 105 of the Guidance in reaching my conclusion. The paragraph sets out that it is not the intention of the permitted development rights to include the construction of new structural elements of the building, and that the existing building must be structurally strong enough to take the loading which comes with the external works to provide for the residential use.
11. I have taken into account the appellant’s statement that the building had previously incorporated brick walls up to roof level, and consequently would be sufficiently sound structurally to take the loading of the works of conversion as proposed. However, I note that the building does not now incorporate such an extent of wall, and despite a reference within the Grounds of Appeal to the conclusions of an initial survey that underpinning would be unlikely, no conclusive detailed evidence has been placed before me that the extent of the retained structure would be capable of bearing the loading of the walls and roof of the proposed conversion of the building to a dwelling. Whilst I have had regard to the appellant’s submission that the building regulation legislation requires the existing foundations to be assessed for adequacy for new loadings, counteracting the overall guidance, in the absence of any evidence that this adequacy has been established, I conclude that it has not been demonstrated that the existing building would be structurally strong enough to take the loading of the works, and therefore benefit from the permitted development right.
12. On the basis of the submitted evidence and my observations on the appeal site, the proposed development would not accord with all the relevant provisos contained in paragraph MB.1 of Part 3 of the GPDO or the Guidance. Consequently, the appeal scheme would not be permitted under Class MB of the GPDO by virtue of this conflict.

Other Matters

13. The Council has also disputed the appropriateness of the amount of curtilage which has been included to accompany the proposed conversion, which I noted on site was in use in connection with the storage of agricultural equipment. In reaching this conclusion, the Council has drawn my attention to the definition of curtilage at paragraph MB.2(9)(b). This states that the piece of land must be immediately beside or around the agricultural building or be an area of land no larger than the land area occupied by the agricultural building, whichever is the lesser. In this instance, whilst the land would be immediately adjacent to and around the agricultural building, it would be far in excess of the land area occupied by the building. On the basis of the specific wording of the definition, the proposed curtilage would exceed the lesser of the two options for curtilage as set out, and would not therefore amount to permitted development in this respect.
14. As a consequence of their conclusions in respect of paragraph MB.1, the Council has not undertaken any further assessment as to whether the proposed

conversion would be compliant with paragraph MB.2 beyond that related to establishing curtilage. Similarly, I have also not undertaken such an assessment as it would be unnecessary in the context of my conclusions regarding paragraph MB.1.

15. Whilst I have had regard to the appeal decision which has been referred to me by the Council, in light of the specifics of this appeal, I have not found it to be a central factor in my decision-making.

Conclusion

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

M Seaton

INSPECTOR