The Planning Inspectorate

Appeal Decision

Site visit made on 6 February 2023

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/B3438/W/22/3305243
Longhurst Farm, Dimmingsdale, Cheadle, Staffordshire, ST10 3AS (Easting 404822, Northing 343838)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 Mrs E Clowes against the decision of Staffordshire Moorlands District Council.
- The application Ref DET/2020/0038, dated 21 July 2020, was refused by notice dated 30 May 2022.
- The development proposed is the change of use of an agricultural building to a dwellinghouse (Class C3), and for building operations reasonably necessary for the conversion.

Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3(1) and 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 of an agricultural building to a dwelling house, and for building operations reasonably necessary for the conversion, in relation to the agricultural building at Longhurst Farm, Dimmingsdale, Cheadle, Staffordshire, ST10 3AS (Easting 404823, Northing 343839) in accordance with the details submitted pursuant to Article 3(1) and Schedule 2, Part 3, Paragraph W(2) of the GPDO and subject to the conditions of the GPDO.

Main Issues

2. Class Q of the GPDO grants permission for the change of use of an agricultural building to a use falling within Class C3 (dwellinghouse) of the Schedule to the Use Classes Order, together with building operations reasonably necessary to convert the building. Paragraphs Q.1 and Q.2 specify limitations and conditions in relation to Class Q.

3. The Council has refused the application on the basis that the building is the result of unlawful building operations, namely the rebuilding of a ruinous structure without planning permission, and that these operations were carried out before applying to the Council for a determination as to whether prior approval of the authority was required in relation to the items in paragraph Q.2.

4. On the basis of the evidence of the Council and appellant, the main issues in this appeal are:

   - whether the local planning authority determined within 56 days the application made, pursuant to paragraph Q.2, to determine if prior approval was required for a proposed change of use of an agricultural building to a dwellinghouse (Class

C3), and for building operations reasonably necessary for the conversion; and, if it did,

- whether the proposed development would fall within development permitted under Schedule 2, Part 3, Class Q of the GPDO, and would not be excluded by the applicable conditions, limitations or restrictions.

Reasons

Whether the application for prior approval was determined within 56 days

5. The application is dated 21 July 2020 and was validated by the Council on the same day. The statutory 56 day period for determination of the application therefore expired on 15 September 2020. Given that the decision was not issued until 30 May 2022, the Council failed to refuse the application within the statutory period. As a result, prior approval is deemed to have been granted by the GPDO and the appeal should be allowed.

6. The change of use of the building to a dwellinghouse though would only be lawful if it is carried out in accordance with the submitted plans and falls within development permitted under Schedule 2, Part 3, Class Q of the GPDO, and would not be excluded by the applicable conditions, limitations or restrictions. To establish the lawfulness of the development either the appellant would need to apply for a certificate of lawfulness or, if no such application is made, the Council would need to use its enforcement powers.

7. I have found that prior approval has been deemed to have been granted by virtue of the Council's failure to refuse the application within the statutory period. As a result, I cannot address the second main issue, namely, whether the development would be permitted development.

Conclusion

8. For the reasons given above, I therefore conclude that the appeal should be allowed.

Ian Radcliffe

Inspector