
Appeal Decision

Site visit made on 6 September 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 23 September 2016

Appeal Ref: APP/P1045/W/16/3148736

The Barn, Back Lane, Two Dales, Matlock, Derbyshire DE4 5LP

- 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 Ms S Marshall against the decision of Derbyshire Dales District Council.
 - The application, dated 22 October 2015, was refused by notice dated 5 November 2015.
 - The development proposed is conversion of building to form dwellinghouse with alterations as shown on submitted plan. Access via Back Lane. Parking for 2 cars within proposed curtilage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council refused to validate the appellant's prior approval application via correspondence dated 5 November 2015. The Council's correspondence clearly indicates that they do not consider that the proposal complies with one of the limitations and restrictions set out in Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). Namely that the site was not used solely for agricultural use as part of an established agricultural unit on 20 March 2013. As such I have treated this correspondence as the refusal notice and dealt with the appeal on this basis.

Application for costs

3. An application for costs was made by Ms S Marshall against Derbyshire Dales District Council. This application is the subject of a separate decision.

Main Issue

4. Class Q permits 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 (dwelling house) of the Schedule to the Use Classes Order (Class Q (a)), and building operations reasonably necessary to convert the building (Class Q (b)). This is subject to a number of circumstances where such development is not permitted, listed under paragraph Q.1. Development is not permitted if the site was not used solely for an agricultural use on 20 March 2013 (Q.1 (a)). The Council refused to validate the prior approval
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application on the grounds that the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013.

5. Therefore, the main issue is whether the proposal is permitted development under Schedule 2, Part 3, Class Q of the GPDO, having particular regard to the following:
 - Whether the site was used solely for an agricultural use as part of an agricultural unit on 20 March 2013.

Reasons

6. The appellant has stated that the building was used on the 20th March 2013 in connection with an agricultural holding. However, I have not been provided with a plan of the land connected with that holding or any details in relation to the size of that holding. The evidence provided by the appellant does refer to fields adjacent to the building and at my site visit I noted that the appellant was undertaking tasks within the adjoining field to the building. As such I have treated the field/paddock that the building adjoins as forming the agricultural holding.
7. A planning application was refused in 2009 and the subsequent appeal¹ dismissed in relation to the change of use of the appeal building. The change of use was described as the conversion of a stables and feedstore into a dwelling. The appellant confirms that in 2009 and until the end of 2011 that the building was used partly for equestrian purposes. However, she states that by 2012 the equestrian use of the building had terminated and the building was in use solely for agriculture.
8. The appellant has provided a copy of a letter from a Mr Hinchley which claims that during 2012 he kept sheep on the appellant's agricultural holding and some fodder in the building. He also states that he saw nothing to suggest that any other use was being made of the building. However, the letter does not relate to the use of the building on the 20th March 2013.
9. At my site visit I noted that the appeal site building is of stone construction with a metal sheeting roof. Whilst the doors have the appearance of stable doors the interior of the main part of the building comprises one large space. Within this space there were general storage items, hay, metal fencing panels and what appeared to be metal feeding troughs. I acknowledge that the interior of the building is not laid out as stalls or a stable. There were sheep and horses within the adjoining field and the horses were within a field shelter.
10. The Council has provided a number of photographs taken during site visits in 2009, 2013 and 2015 that show the exterior of the building and the adjoining field/paddock. The 2013 and 2015 photographs do show some horse paraphernalia adjacent to the door of the building and what appears to be a tether for horses. The appellant has stated that this only confirms that horses are grazed on the land and that it is sensible for the items to be placed close to the building whilst the owner of the horse is out riding. However, the horse paraphernalia does show that the horses are being tended in close proximity to the building. It is highly likely that this takes place whilst the horses are tethered to the post adjacent to the building.

¹ APP/P1045/A/09/2115433

11. The agent acting on behalf of the appellant has also confirmed that whilst carrying out survey work in 2013 for the prior notification application for the change of use to a guest house that the building contained hay and agricultural equipment. He has also confirmed that there were sheep and a horse grazing in the adjoining fields.
12. The equestrian use of land can be treated as agricultural if the horses are kept for working purposes or if they are simply turned out on land with a view to feeding them from that land i.e. grazing. However, if they are fed additional food or if they are ridden or exercised i.e. the keeping of horses then the use ceases to be agricultural. Taking into account that the evidence shows that the building has been used for the storage of fodder/hay, the presence of the horses on site that appear to have been tended to on the site and the horses are ridden and exercised I find that the horses are being kept on the land. I acknowledge that the horses may or may not be ridden and exercised on the holding. However, I consider that it is likely that some of the site is not solely in agricultural use.
13. I have carefully considered all of the evidence. It is for the appellant to prove on the balance of probability that the building was used solely for an agricultural use as part of an established agricultural unit in compliance with Paragraph Q1(a). Without any persuasive supporting evidence I conclude that there is insufficient information to demonstrate that the relevant GPDO conditions, limitations and restrictions have been met in respect of the agricultural use of the site.

Conclusion

14. I have not been provided with sufficient information in relation to the agricultural use to establish compliance with Paragraph Q1(a) of the GPDO. I therefore conclude that the permitted development right to convert this agricultural building into Class C3 use does not apply. For these reasons I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR