

Appeal Decision

Site visit made on 12 July 2016

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 24th October 2016

Appeal Ref: APP/C1950/W/16/3147011

**Northaw Brook Meadow, Coopers Lane Road, Northaw, Potters Bar,
Hertfordshire EN6 4FB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission 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 and Mrs A Beesley against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2015/2282/PN10, dated 5 November 2015, was refused by notice dated 31 December 2015.
 - The development proposed is change of use of an agricultural building to a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the description of development, based on all that I have seen and read it is clear that this involves the prior approval for the change of use.

Main Issue

3. I consider the main issue to be whether the proposal is permitted development having regard to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), and if it does, whether prior approval is required in relation to the matters listed in paragraph Q.2.(1) of the GPDO.

Reasons

4. The appeal building is a timber-clad building positioned adjacent to an existing stable block. It is situated on an established small holding which is in mixed agricultural and equestrian use and from my site visit appears to be the only building on the holding providing storage space. The stables, providing for four horses, appear to offer only very limited storage facilities. Despite this, at the time of the site visit the appeal building was largely empty with little evidence of any agricultural machinery or equipment being stored within it. However, on the basis of what I have read and seen, I have no reason to doubt that the building was originally constructed for this purpose and has been in use as such for most of its existence.
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5. The relevant section of paragraph Q.1.(a) 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 unit on 20th 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, or in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins.'*
6. The appellants state that the appeal building has a lawful agricultural use under relevant legislation¹, that it has been in continuous agricultural use as a store and workshop for over 10 years, including on 20 March 2013, and that its use is completely separate from the mixed agricultural and equestrian use of the wider holding which surrounds the appeal building. Statutory declarations were submitted by one of the appellants and by a further party, albeit both of these accounts were challenged by the Council.
7. I note from the extensive planning history of the wider holding, including the appeal building that it has been found to be an established planning unit with a mixed agricultural and equestrian use. Furthermore, the appellants' supporting statement for the planning application relating to this appeal refers to the mixed use of the wider holding, to the appeal building being a workshop in 2012 and states that nothing has changed since that time.
8. Whilst storage and use as a workshop can be considered as agricultural use, this would only be the case if the building was to accommodate agricultural machinery and equipment. The Design and Access Statement (DAS) relating to a previous application in 2012 describes the whole site as having a mixed use with the two uses functionally dependent on each other. It further notes the need for storage of equipment including that related to the equestrian use of the site such as the manege grader and manure collector. The DAS does not describe a functionally separate building that was used solely for agricultural purposes. Nor does it describe a functionally separate agricultural unit on the site. In addition, further evidence indicating the storage of residential paraphernalia and the description of the appeal building as a garage do not provide certainty that the appeal building has been solely in agricultural use.
9. It is for the appellants to provide substantive evidence to support their case for permitted development. The Courts have held that the relevant test of the evidence on such matters is "the balance of probability". Furthermore, the Court² has held that the appellants' evidence does not need to be corroborated by "independent" evidence to be acceptable. However, the Court has also indicated that where there is evidence from others which contradicts or otherwise makes the appellant's evidence less than probable, the appeal should be dismissed.
10. Based on the evidence before me, I find that the appeal building has formed part of the wider planning unit of the whole holding and the uses relating to the appeal building and the wider holding are not separate but closely related and are functionally dependent on each other. Therefore, as the only substantial storage building on the holding, and on the balance of probabilities, I find that the appeal building has not been solely in agricultural use and could not benefit from the legislation referred to by the appellants.

¹ Section 55(2)(e) of the Town and Country Planning Act 1990 (as amended)

² F.W. Gabbitts v SSE and Newham LBC [1995] J.P.L 630

11. Consequently, as the proposed change of use is contrary to the restrictions contained within the GPDO, I conclude that it is not permitted development. The Council was therefore correct to refuse the application in accordance with paragraph W(3) of the GPDO. As a result, it is unnecessary for me to go on and assess whether prior approval is required in relation to the matters listed in paragraph Q.2.(1) of the GPDO.

Conclusion

12. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR