
Appeal Decision

Site visit made on 4 October 2016

by Michael Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 27 October 2016

Appeal Ref: APP/G2713/W/16/3152353

The Barn, Stillington Road, Sutton on the Forest, York YO61 1EH

- 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 GPDO').
 - The appeal is made by Mr Stephen Clark (S B & A Clark Farming Ltd) against the decision of Hambleton District Council.
 - The application Ref: 16/00226/MBN, dated 19 January 2016, was refused by notice dated 2 March 2016.
 - The development proposed is change of use of existing agricultural building to a dwelling.
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Decision

1. The appeal is dismissed

Main Issue

2. The main issue in this case is whether the proposal would accord with the requirements for development permitted under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

3. The appeal relates to a barn located in open countryside between Stillington and Sutton on the Forest. The portal frame building is externally finished in concrete panel and profiled sheet walling under a steel sheet roof and lies some 120m to the west of the B1363 Stillington Road. The access track leads to areas of hardstanding to the front, side and rear of the building. The surrounding land is predominantly in agricultural use with the exception of a field to the immediate north-east of the building which is used for the grazing of horses and contains a number of field shelters. On the east side of the B1363 opposite the site is 'Ride-away', an equestrian equipment retail store, and a couple of dwellings.
4. In 2008 retrospective planning permission was granted¹ for the '*construction of a mixed use agricultural and domestic building for keeping of horses*' on the appeal site. Internally, 316.5m² of the building was approved for agricultural storage and the remainder (115.5m²) as loose boxes for horses and, at certain times of the year, sheep. The appellant states that since 2011 the building has been used solely for agricultural purposes involving the storage and drying of

¹ Council ref: 08/04275/FUL

crops and periodic housing of sheep, adding that this variation in the approved use would not appear in the Council's records as it did not require planning permission. The Council maintains that in addition to agricultural operations on the site there is clear evidence of horse-related activity and as such the land and building are in dual use and not solely confined to agriculture.

5. Class Q of the GPDO grants permission for the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses). Paragraph Q.1 states that development is not permitted by Class Q if, amongst other things, (a) the site was not used solely for an agricultural use as part of an established agricultural unit:
 - (i) on the 20 March 2013, or
 - (ii) 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
 - (iii) 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 appellant submits that the building and site in question were solely in agricultural use on 20 March 2013 and that the equestrian use of the adjoining field is not reliant on the appeal site. Submitted evidence includes a Council non-domestic rate demand notice for an 'agricultural building opposite Ride-away' dated 5 May 2011. However, it is unclear whether this description was based on an internal inspection of the building by the Council to establish its use(s) for rating purposes. I therefore attach limited weight to this evidence in support of the proposal.
7. It is not absolutely clear whether a delivery note to Farmaway Ltd, S B & A Clark, Stillington Road, York dated 3 November 2011 relates to the appeal site. However, if it does then it only indicates that agricultural activities were taking place on the land at this time and does not show that such activities were the sole use of the site and building. A Google Map image dated September 2011 shows tractors and a grain dryer next to the building and sheep in the adjacent field. Whilst this shows agricultural operations on the site it does not provide compelling evidence that this was the only activity on the site or in the building.
8. Two affidavits dated 2 September 2015 also accompany the proposal and include a Rural Land Payments Plan showing the barn and surrounding land. One states that for the preceding five years the signatory, a farmer and agricultural contractor, used the building as storage and for all purposes solely connected with the farming of the land. The other affidavit, signed by the appellant, states that the building was returned to agricultural use in 2011 and has since been solely used for agricultural purposes, including storage and grain drying and providing secure storage for fertilisers, hay and straw.
9. The onus of proof is upon the appellant to show whether, on the balance of probability, the building has been used solely for an agricultural use as part of an established agricultural unit on the relevant date. The evidence has to be sufficiently precise and unambiguous to succeed. Whilst I attach some weight to the affidavits, I find that the other evidence submitted by the appellant is not sufficiently compelling to demonstrate that the appeal site was used solely

for an agricultural use as part of an established agricultural unit on the 20 March 2013. As such the proposed change of use of the existing agricultural building to a dwelling would not accord with the requirements of Schedule 2, Part 3, Class Q of the GPDO and therefore is not permitted by the Order.

Other Matters

10. Whilst not an issue for the District Council, the Parish Council submits that the proposed conversion works would significantly exceed the provisions of Paragraph Q.1(i)(i)(aa) of the GPDO. However, I consider that the proposed works indicated on the submitted drawings are reasonably necessary for the building to function as a dwelling and therefore find no conflict with Paragraph Q.1 in this respect.
11. I see no clear reason why the location or siting of the building makes it otherwise impractical or undesirable to change it to a dwelling as the Parish Council suggests. Whilst the conversion may not reflect the style and character of houses in the area, the design and external appearance of the building would not be significantly altered. Accordingly, I find no conflict with Paragraph Q.2(1)(e) and (f) of the GPDO. Furthermore, the *Planning Practice Guidance* advises that the permitted development right does not apply a test in relation to sustainability of location as many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs.

Conclusion

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

Michael Moffoot

Inspector