

Appeal Decision

Site visit made on 4 October 2016

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 8th November 2016

Appeal Ref: APP/C1570/W/16/3153418

Tilsbrook, Duck End, Stebbing, Great Dunmow, Essex CM6 3BS

- 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.
 - The appeal is made by Mr & Mrs D Barker against the decision of Uttlesford District Council.
 - The application Ref UTT/15/3368/PAP3Q, dated 5 November 2015, was refused by notice dated 30 December 2015.
 - The development proposed is described as "Prior notification of proposed change of use of agricultural building to 1 no dwelling".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the description of development from the appellants appeal form and the Council's decision notice as there is no description contained in the original application form.

Main Issue

3. The main issue is whether the proposal would be permitted development, having particular regard to whether the building was used solely for agricultural use at the time of the consideration of the application and on the 20 March 2013.

Reasons

4. The appeal site is located in a rural area to the south of the B1057. The building to which this appeal relates to is structurally supported by timber poles. The building has a concrete base and is clad with a mixture of metal, timber and other profiled sheeting. There is also an open sided lean-to structure on its east side. The building is set in the grounds of 'Tilsbrook' which is a substantial two storey detached dwelling with landscaped gardens. There is also a large ornamental pond. The prior notification relates to the conversion of the building into a dwellinghouse. Other than a site location plan, no other details of the conversion have been submitted.
 5. Class Q permits development consisting of the change of use of a building (and any land within its curtilage) from an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Class Q
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also allows any building operations reasonably necessary to convert the building.

6. I acknowledge that there has been a previous appeal¹ on this site for the same development, and that additional information has been submitted with this notification and appeal. The appellants indicate that the land where the appeal building is sited is used as an agricultural unit and is currently used by chickens and for growing cricket bat willow. It is understood there has historically been sheep on the land, but none are present now or in recent times owing to economic reasons including the cost of fencing. The Council consider that the appeal building is an ancillary storage building for the large residential curtilage use of the house and not an agricultural unit.
7. From my site visit I saw that the willow trees were sited away from the house to the south-east of the appeal building. There were also approximately 15 chickens which were able to roam freely on the land, including up to the house itself.
8. The physical characteristics of the whole site indicate that the land surrounding the house and the land where the appeal building is located blend into one large area, with little difference between the two. Additionally, the ornamental pond located towards the centre of the site exhibits a distinctly domestic feel. Despite the presence of willow trees away from the house, the land does not indicate that there is a discernible agricultural unit.
9. The appeal building itself contained a tractor, a sit on lawnmower, a domestic scale lawnmower, together with other various workbenches, ladders, tools and equipment. There was also a small area where a chicken coop was located and a fridge freezer which I understand is for the storage of eggs. The roof of the building was also supported by temporary support poles. Under the lean-to there were what appeared to be panels from a shed and a circular saw on a stand.
10. The Council have not challenged the credibility of the submitted declarations, and agree that the building may indeed have been used for agricultural purposes in the past. Similarly, it is not contested that cricket bat willow has been grown on the site for over 35 years.
11. The principle of growing of cricket bat willow trees and the keeping of chickens for business purposes could be classed as an agricultural use. However, I have serious doubts as to the whether the extent of the activity, particularly in relation to the keeping of chickens, amounts to an agricultural business as opposed to an ancillary domestic activity on the basis of what I observed on site.
12. In this respect, I understand that eggs are sold from the gate of the site, although I saw no evidence of such at my site visit. Given the number of chickens, I consider that this does not amount to an agricultural use. Instead, it is more akin to the keeping of chickens as a hobby as an ancillary function of a domestic use.
13. Turning to the growing of cricket bat willow, the Council does not contest that this is an agricultural use or that it has been grown on the site for over 35 years. However, whilst some of the equipment in the barn could be utilised for

¹ APP/C1570/W/15/3004016

the upkeep of the willow trees the agricultural use of the site appears to be very limited. Given the extent of the site, the size of the building, and the expanse of lawn in front of the building (with no willow trees) there is serious doubt as to whether the building is in sole agricultural use or whether it forms part of an agricultural unit.

14. In relation to the historical use of the building, and surrounding land for the keeping of sheep, the evidence provided does not indicate when this ceased or whether they were present on the site on the 20 March 2013.
15. Therefore, the evidence before me leads me to the view that at least part of the building has also have been used for non-agricultural uses given the low level of agricultural activity and limited evidence that the keeping of chickens has been a business purpose. Furthermore the size of the building, relative to the land, adds further doubt as to its overall use.

Other Matters

16. The appellants have cited an Appeal Decision ² that considered the same issue as in this appeal. Whilst I am not aware of the full circumstances of this case, the decision letter refers to invoices and that the land was clearly being farmed for the purposes of hay production and there appears to be a significant difference between the two schemes. Moreover, each case must be determined on its individual evidence.

Conclusion

17. For the reasons given above the balance of evidence, and what I observed on site, leads me to the view that the building is not in sole agricultural use nor would it appear to have been on the 20 March 2013. Therefore, the proposal does not benefit from permitted development rights under the provisions of the GPDO and therefore the appeal is dismissed.

Chris Forrett

INSPECTOR

² APP/G5180/W/16/3144487