
Appeal Decision

Site visit made on 6 December 2016

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 19 December 2016

Appeal Ref: APP/G2713/W/16/3158990

Barn in field east of Deighton Manor Farm, Northallerton, North Yorkshire, DL6 2SN

- 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 Liam Snowdon against the decision of Hambleton District Council.
 - The application Ref 16/01099/MBN, dated 11 May 2016, was refused by notice dated 3 August 2016.
 - The development proposed is change of use of agricultural building to a dwellinghouse.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development is permitted under the above Order.

Reasons

3. Development is permitted under Schedule 2, Part 3, Class Q of the above Order subject to certain limitations. Development is not permitted by Class Q if – (i) the site was not used solely for an agricultural use as part of an established agricultural unit on 20th 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 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;”. Furthermore, permission granted by Schedule 2 does not apply if the building operations involved in the construction of that building are unlawful.
 4. The Council is of the opinion that no building existed on the site on 20th March 2013 saying that according to Google Street View and Google Earth, only a wall existed. The Council says that a new building was constructed which was brought to their attention in 2014 and although this includes the previous wall, the rest of the building, including the floor, is new. Thus, the Council argues that given that the building has only existed since 2014, it cannot benefit from Class Q permitted development rights. A neighbour also insists that the current building is a new one. The neighbour has provided Google images showing only a small amount of blockwork existing on the site in 2011.
-

5. On the other hand, the appellant says that the building has existed for many years including on 20th March 2013 and was used on that date solely for agricultural purposes. The owner says that the building was used to store machinery, hay, fencing and maintenance equipment. He also says that he had sheep on and off the land and that hay was cut every year. No other details of the agricultural business have been provided. Some neighbours have stated that the barn was re-roofed and re-furbished before April 2013. The agent also says that the structure was improved with tin sheets and then tiles prior to 2013. The contract of sale also refers to a shelter type building on the land but this only confirms the appellant's opinion that the current building is not a new one.
6. The appellant's evidence in relation to the existing building consists of vague assertions that it existed for many years and has been subject to maintenance and repair. The Council clearly disputes this. The information before me, therefore, is conflicting and I have insufficient evidence, such as exact dates, photographs or full details of the building works which have been undertaken. Neither do I have detailed photographs of the building in its previous form. Therefore, I cannot reach a conclusion about whether or not the building is a new one or if it is simply a repaired old one. Furthermore, the details of the previous agricultural operation are, at best, scant. Just because the Council has not taken enforcement action against the structure is not an acceptance that the building is lawful.
7. Under Paragraph W the local planning authority may refuse an application where the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions as being applicable. In this case the developer has provided insufficient information about whether or not current building lawfully existed and was solely used for agricultural purposes on the relevant date or if it was last used for agricultural purposes before that date.
8. Furthermore, I disagree with the appellant's interpretation of the GPDO. In my mind "the site" clearly refers to the building subject to the proposed change of use.
9. Overall, the developer has provided insufficient information to enable me to establish whether the proposed development complies with limitations of the above Order.

Conclusion

10. I conclude that the proposal does not constitute permitted development and the appeal is dismissed.

Siobhan Watson

INSPECTOR