
Appeal Decision

Site visit made on 28 November 2016

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 21 December 2016

Appeal Ref: APP/J1915/W/16/3149076

Woodlands, West End Road, Wormley West End, Wormley, Herts EN10 7QN

- 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 Mr Shaun Cherry against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/0312/ARPN, dated 7 February 2016, was refused by notice dated 29 March 2016.
 - The development proposed is conversion of agricultural building to residential use (C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council provided two reasons for the refusal of the application. The first such reason considered that the subject building is not an agricultural building and therefore falls outside the remit of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Paragraph X of this schedule states that, "agricultural building" means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business...".
 3. The building consists of an open metal and wood framed structure. At the time of my visit there were no sides or roof on the structure. Evidence details how the building was granted consent in March 2002, and that the Council are content that the partially completed structure is lawful. The ground in and around the structure is unkempt and covered in various weeds, with a number of plastic covered hay bales stored underneath the building.
 4. The appellant states the barn is in use and has been used for agricultural storage of hay since 2008. A separate signed letter details how a farmer based at a nearby farm uses the entire appeal site for a hay crop, and uses the building to store the baled hay. However, other evidence from a nearby resident close to the appeal site states that the hay bales have only been in evidence since early 2016.
 5. The building at present also provides no cover or shelter for the hay bales. There is no physical difference to storing the hay bales underneath the structure, to storing them adjacent to the building; in effect to my mind, the building performs no purpose, agricultural or otherwise, at present.
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Furthermore, the land immediately in and around the barn shows no indication of being in use for agriculture, despite the signed statement submitted. I also have little evidence of how the land is required for the purposes of a trade or business, given the lack of purpose that the building at present forms. Given this lack of evidence I do not consider that the building can be considered as an agricultural building under the terms of the GPDO and conclude that it does not fall within the provisions of the Order.

6. Furthermore, during my consideration of the appeal, I asked the parties for their views on the curtilage of the proposal, with reference to Paragraph X of Part 3 of Schedule 2 of the GPDO. The permitted development right allowed for in Class Q includes the change of use of a building and any land within its curtilage. Paragraph X states that curtilage means 'the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or an area of land immediately beside or around the agricultural building no larger than the land occupied by the agricultural building. Whichever is the lesser.'
7. Plan ELA/13 B defines the outline of the application site. This details an area of land including the building to be converted and a large area of adjacent land primarily to the south and west of the building. The application form states that the floor space of the existing building is 333m², and that the area of land within its curtilage which it is proposed to change use is 1,000m². This is significantly larger than the land occupied by the building itself and thus exceeds the area of land allowable under the statutory definition. The appellant did not provide any further comments on this matter, and I can only consider the appeal on the basis of the information which has been submitted to myself.
8. Therefore, even if the building did fall within the definition of an agricultural building within the GPDO, the proposed curtilage for the building would not fall within the remit of Class Q of the GPDO. Given these conclusions it has not been necessary for me to make a determination on the other reason for refusal of the application.
9. Consequently the proposal is development for which an application for planning permission is required. An application for planning permission would be a matter for the local planning authority to consider in the first instance and cannot be addressed under the prior approval provision set out in the GPDO. Accordingly the appeal is dismissed.

Jon Hockley

INSPECTOR