

Appeal Decision

Site visit made on 30 November 2016

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 6th January 2017

Appeal Ref: APP/Z4718/W/16/3157829

Pog Hall Farm, High Flatts, Huddersfield HD8 8XU

- 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 Howard Brook against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/91024, dated 29 March 2016, was refused by notice dated 26 May 2016.
 - The development proposed is alterations to existing barn to form one dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal is permitted development under Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO) 2015, having particular regard to the following:
 - (a) Whether the site was used solely for an agricultural use as part of an agricultural unit on 20 March 2013; and
 - (b) Whether the building operations proposed are reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouse).

Reasons

Agricultural Use

3. The appeal relates to a small detached single storey building set in a small paddock. The building has a low wall of coursed block work on all four sides, above which are timber walls and a corrugated mono-pitch metal roof, which includes transparent plastic elements to allow natural light into the building. The building is accessed from a long private road that serves a number of buildings including Pog Hall Farm. The access is outside the red line of the application and also serves an adjacent greenhouse (also outside the appeal site) and provides opportunities to access the adjoining field. The site is screened from the main road by a dense bank of coniferous trees.
 4. Development is not permitted under Class Q(a) if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. According to the Council, planning permission was granted in 2003 for the building to be used as stables. While the planning history of the unit is not
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necessarily determinative in itself, the fact the building was not originally intended to be used as a barn means that it is particularly important to have clear and conclusive evidence that the building was solely in agricultural use on 20 March 2013.

5. The information provided in support of the application is limited. All I have are simple statements from the appellant and tenant that the building has been used in association with sheep farming since 2005. However, I have nothing which provides substantive evidence of the timing of the use, or the relationship between the building and the agricultural unit to which it relates. For example, I have not been provided with such things as copies of lease agreements or any other documentary evidence that would support the appellant's statement.
6. The Council saw no evidence of on-going agricultural use on their site visit. I observed some hay bales in empty stalls and empty feeding troughs outside the building, but these are not conclusive proof of any recent activity relating to sheep farming. While these visits took place after the relevant date and thus carry little weight in themselves, they provide little comfort that the conditions of the GPDO have been met.
7. In addition, the information relating to the agricultural unit is also unclear. The appellant's statement indicates that the agricultural unit to which the building relates is Pog Hall Farm. However, other evidence indicates its use as part of a tenant's agricultural business, which also includes other land owned by different landowners. If it were related to the former, then I have no information as to whether Pog Hall Farm was a working farm on this date or not. If it were the latter, then there is no information relating to the extent of the agricultural unit as a whole or what other land is involved in the business.
8. Paragraph W of Schedule 2, Part 3 of the GPDO places the responsibility to demonstrate compliance with the limitations of Class Q with the applicant. I find I have insufficient evidence to conclude that the building was solely in use for agricultural purposes as part of an established agricultural unit on 20 March 2013. The lack of detail, clarity and apparent inconsistency in the evidence means that I am unable to conclude with any certainty that the relevant GPDO conditions, limitations and restrictions have been met.

Building works

9. Class Q(b) of the GPDO refers to building operations that are 'reasonably necessary to convert the building' being permitted development. This can include the installation and replacement of walls, windows, doors, roofs and for partial demolition. The National Planning Practice Guidance (PPG) makes it clear that it is not the intention of the permitted development right to include the construction of new structural elements. It further states that the permitted development right only applies where the existing building is structurally strong enough to take the loading which comes with any permitted external works.
10. No structural surveys have been provided to support the application. The appellant's statement indicates that the existing low block work would be replaced by a new full height cavity wall and that this would be clad in stone at the lower level. A new steel roof would also be installed, along with new windows, doors and concrete floor. The statement suggests that the existing

timber would be reused to clad the wall. However, this does not appear to tally with the submitted plans which indicate that there would be new red cedar cladding to "match the profile of the existing building".

11. Irrespective of any reuse of the timber, the extent of demolition and level of new construction would result in a considerable amount of new building with very little, if anything, of the original structure remaining. Owing to the extent of demolition and replacement involved, I cannot conclude that the proposed works would not be structural in nature and that any internal works would go beyond that necessary for the maintenance, improvement or other alteration of the building. I also have nothing substantive that demonstrates the replacement walls and roof would not need new foundations to support the additional weight.
12. There is insufficient information to conclude that the existing building is capable of functioning as a dwelling without significant structural works. Moreover, the evidence I do have suggested that what is proposed would go beyond what is 'reasonably necessary' to convert the building and would constitute what is essentially a rebuild.
13. Taking all relevant factors into account, it is my view that the extent of the works proposed for the building to be used as a dwelling would fall outside the scope permitted under Class Q. Therefore, even if I had found that there was conclusive evidence of the building having been in sole agricultural use on 20 March 2013, I would have still concluded that the development would not be permitted development under the requirements of the GPDO.

Other matters

14. The appellant has provided additional information on their personal circumstances, the downsizing of the agricultural use and the process they went through with the application. However, these factors do not have a significant bearing on whether the development would meet the specific conditions of the GPDO.
15. The appellant has drawn my attention to other permissions relatively near to the appeal site. However, I have not been provided with the details of these and thus cannot conclude that they are comparable to this proposal. In any event, I have considered the appeal on its own merits.

Conclusion

16. For the reasons outlined above, the proposed development does not satisfy the limitations in Part 3, Class Q of the GPDO. As such, I consider that the appeal should be dismissed.

S J Lee

INSPECTOR