
Appeal Decision

Site visit made on 9 January 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 16 January 2017

Appeal Ref: APP/W4705/W/16/3160202

Agricultural Building, No 1 Thorngate, Tenyards Lane, Thornton, Bradford, West Yorkshire BD13 3SD

- 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 Hall against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 16/04729/PAR, dated 8 June 2016, was refused by notice dated 28 July 2016.
 - The development proposed is change of use of an agricultural building to a dwellinghouse and associated operational development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Planning Practice Guidance (PPG) advises that the starting point for Class Q is that the permitted development rights grant planning permission, subject to the prior approval requirements. However, it is necessary to determine whether the proposal falls within permitted development. Class Q of the GPDO¹ states that development consisting of Q(a) a 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) of the Schedule of the Use Classes Order²; and Q(b) building operations reasonably necessary to convert the building, is permitted development.
3. Where development is proposed under Class Q(a) together with Class Q(b), it is permitted subject to the condition under paragraph Q.2 (1) that before beginning the development, an application must be made to the local planning authority for a determination as to whether the prior approval will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building.
4. The Council refused the application for prior approval because it considered that the proposed building had not been used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or in the case of a building which was in use before that date but was not in use on that date,

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

² The Town and Country Planning (Use Classes) Order 1987 (as amended)

when it was last in use as required by paragraph Q.1 (a) and referred to in paragraph Q.1 (f). There is no dispute between the parties that the current proposal for change of use and operational development would otherwise meet the requirements of Schedule 2, Part 3, Class Q, paragraphs Q.1(b)- (e) and (i) - (m) of the GPDO.

Main Issues

5. The main issues are:

- whether the proposal would be permitted development, with particular regard to whether the requirements of Class Q of the GPDO in terms of paragraph Q.1 (a) would be met, and;
- if so, whether or not prior approval is required and the proposal would be acceptable in relation to the matters sets out in paragraphs Q.2(1)(a) to (f) of the GPDO.

Reasons

Whether the proposal would be permitted development

6. 'Agriculture' as defined in Section 336, paragraph (1) of the Town and Country Planning Act 1990 (as amended), amongst other things, includes horticulture, fruit growing, seed growing, the breeding and keeping of livestock and the use of land as grazing land. Schedule 2, Part 3, paragraph X of the GPDO further sets out that for the purposes of Part 3 permitted development rights, 'agricultural building' means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business, and 'agricultural use' refers to such uses.
7. Compliance with Class Q, amongst other criteria, includes paragraph Q.1(a) which requires that the building was solely used for an agricultural use as part of an established agricultural unit on 20 March 2013 or 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. Schedule 2, Part 3, paragraph X of the GPDO sets out that an 'established agricultural unit' for the purpose of Class Q means agricultural land occupied as a unit for the purposes of agriculture, on or before 20 March 2013 or for 10 years before the date the development begins.
8. The appeal site comprises a detached building and its curtilage. The building consists of a steel portal frame with concrete block walls, timber boarding and a profiled sheet roof. The building is located within a shared yard that includes an area of hardstanding with vehicular access from Tenyards Lane that is also used as a parking area serving the appellants' house (No 1 Thorngate). A roller shutter door on the north elevation of the building fronts onto the yard that provides access to Tenyards Lane. At the time of my visit, the appeal building contained a tractor and other related equipment, together with associated items and materials that could reasonably relate to agriculture and the maintenance of agricultural equipment. However, within the building a limited number of other items not typically associated with agriculture, such as concrete mix and tiling materials, were visible.
9. The shared yard and building, subject to this appeal, adjoin a further yard consisting of a mix of permanent and temporary buildings and mobile containers to the west and south. The yard, buildings and containers are also

within the appellants' ownership and use. The permanent buildings consist of predominantly stable blocks, equipment and hay stores relating to an equestrian use. This use includes an existing ménage located to the south of the building subject to this appeal and beyond a group of temporary buildings and mobile containers. At the time of my visit, those buildings and containers were predominantly in use as domestic storage. The land and buildings associated to the equestrian use and domestic storage are accessed from the shared yard via a gate at the side of the building subject to this appeal.

10. As previously mentioned, the definition of "agriculture" at Section 336 of the Town and Country Planning Act 1990 (as amended) includes the use of land as grazing land. However, it does not include the keeping of horses or ponies unless kept as livestock for food, skins or other products, or for use in farming. There is no indication that the equine use within the appellants' ownership has been for agricultural purposes, despite the presence of some land suitable for grazing, given the presence of a ménage and domestic storage also falls outside of the definition of "agriculture".
11. Having regard to the above, the land and buildings associated to equestrian and domestic storage uses within the appellants' ownership do not benefit from permitted development rights under Class Q of the GPDO and do not comprise an established agricultural unit. It is therefore, necessary to assess whether the building subject to the appeal has been used independently from those uses and, therefore, solely used for an agricultural use as part of an established agricultural unit as required under paragraph Q.1(a).
12. The evidence before me indicates that the detached building was constructed soon after and in accordance with a planning permission granted by the Council in June 2010 and was completed before 20 March 2013. The description of development on the planning permission granted describes the structure as an agricultural building. Nevertheless, the design of the building indicates an association to the use of surrounding land through the inclusion of a roller shutter door and access door on its west elevation which provide direct access to the land and buildings in equestrian and domestic storage use. The design statement relating to the planning permission indicates that the purpose of the building was associated to the tidying up of the land currently in equestrian and domestic storage use, by providing secure storage for farm equipment and hay.
13. The land surrounding the appeal building within the appellants' ownership is not in agricultural use and can no longer be considered an established agricultural unit following the construction of a ménage and use of other buildings for non-agricultural purposes. However, the appellants have indicated that the equipment stored within the building since its construction has been used to maintain an established agricultural unit of approximately 54 acres elsewhere at Shay Fold, a separate holding that has no alternative storage buildings.
14. No substantiated evidence has been provided relating to the current and historic ownership of Shay Fold or the uses which have taken place before, on or after 20 March 2013. However, the information before me suggests that it is land in established agricultural use maintained by the appellants and their family. Representations from interested parties indicate that the appeal building has been continually in use for storage of a tractor and agricultural

equipment since its construction. The Council have provided no contrary evidence relating to alternative storage that may have taken place within the building.

15. Having regard to the above and based on the evidence before me, the appeal building may have had some association to an established agricultural unit at Shay Fold, located some distance from the site, since its construction. Furthermore, such a use may have included storage of agricultural equipment and hay associated to agriculture taking place at Shay Fold on 20 March 2013 and thereafter up to the present day.
16. Nevertheless, I am mindful that a tractor and related equipment, whilst reasonably associated to agriculture, are also commonly used to maintain the surface of ménages. Hay storage can also relate to both agricultural and equestrian uses. In this respect, the appeal building has a more direct relationship to surrounding land and buildings in non-agricultural use than the established agricultural unit at Shay Fold. Moreover, the design and layout of the building provides access directly to the equestrian yard, the ménage and containers used for domestic storage which indicates an association to the on-going use of surrounding land and buildings.
17. Taking all of the above into account, based on the evidence before me, observations during my visit and the balance of probabilities, I am not satisfied that the appeal building and its curtilage have been used independently from the surrounding non-agricultural uses on 20 March 2013 or thereafter. It, therefore, follows that I cannot conclude that the appeal building has been used solely for an agricultural use as part of an established agricultural unit as required by paragraph Q.1(a). I, therefore, must conclude that the change of use would not satisfy the requirements of Schedule 2, Part 3, Class Q of the GPDO and therefore is not development permitted by it.

Prior approval

18. Given my conclusion that the change of use would not be development permitted under Schedule 2, Part 3, Class Q of the GPDO, there is no need for me to consider the prior approval matters as it would not alter the outcome of the appeal.

Conclusion

19. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the local planning authority to consider in the first instance, and cannot be addressed under the prior approval provisions set out previously.
20. The appeal is, therefore, dismissed.

Gareth Wildgoose

INSPECTOR