

Appeal Decision

Site visit made on 18 January 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 17 February 2017

Appeal Ref: APP/J1915/W/16/3159881

Bucksbury Farm, Bucks Alley, Little Berkhamsted, Hertford, Herts

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Greg Hitchins against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/1393/ARPN, dated 10 June 2016, was refused by notice dated 4 August 2016.
 - The development proposed is change of use from agricultural use to C3 dwelling and associated operational development on a site close to Little Berkhamsted.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Greg Hitchins against East Hertfordshire District Council. This application will be the subject of a separate Decision.

Main Issues

3. The main issues are:
 - (a) Whether the building meets the requirements of the Town and Country Planning (General Permitted Development)(England) Order 2015 (hereafter the GPDO) so as to come within the scope of permitted development Class Q namely, that it was used solely for agricultural use as part of an established agricultural unit on 20 March 2013 (Schedule 2, Part 3, Q.1); and (b) Whether the proposals satisfy the prior approval requirements of the GPDO, as amended, with regard to being permitted development under Schedule 2, Part 3, Class Q, for change of use from an agricultural building to a dwelling (Class C3), with particular regard to the location of the building.

Reasons

4. The application was refused by the Council on the basis that there was not sufficient information to demonstrate that the building had been used for agriculture and was so used for the purpose of a trade or business. For the purposes of Part 3 of the GPDO, an agricultural building is defined as a building used for agriculture and *which is so used for the purposes of a trade or business* and agricultural use refers to such uses. Class Q.1 refers to the site being used solely for an agricultural use *as part of an established agricultural unit*. Therefore it is necessary and reasonable for the applicant/appellant to adequately demonstrate that the requirements of Class Q.1 are met.
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5. The proposal is supported by statutory declarations made by G Hitchins and A Fitzjohn. It is identified that the building was erected in 1991. The declarations also refer to the use of a piece of land close to the building as 'farmed land' and the use of the building in association with this activity. It is also submitted that the building has been used for storage for both hay and livestock feed.
6. The red line is draw tightly around the building and the area of land around it is within the blue line, much of which is woodland. The area described as 'farmed land' is located within this blue line area. The general planning definition of agriculture (in the Act) covers a wide range of matters. Accordingly, I accept that the production of hay from this area of land and referred to in the statutory declarations could be regarded as 'agriculture', albeit on a relatively small scale. However, that is only part of the relevant test that must be met.
7. There may be some agricultural activity on the 'farmed land' and the building may have been used for storage in some form. However, there is no specific information that relates to a trade or business or providing a link to the building. The evidence before me does not demonstrate that the building on site is used as part of an agricultural trade or business.
8. As such the development falls outside the permitted development right and therefore there is no need to make a determination on the prior approval matters. Nevertheless the Council's second reason for refusal refers to Criterion (e) regarding the location of the scheme. Criterion (e) requires the consideration of whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling.
9. This has been further clarified through the Planning Practice Guidance (PPG) published on 5 March 2015¹. This sets out that '*the permitted development right does not apply a test in relation to sustainability of location*' and that this is deliberate. Paragraph 109 goes on to provide guidance on what is meant by '*impractical or undesirable*' for the change to occur.
10. The Council refused prior approval on the grounds that the proposal would create a single isolated dwelling in the countryside, away from key services and infrastructure such as public transport, schools and shops. For these reasons it suggests that its location would make it undesirable for the proposed change of use to take place since it would amount to unsustainable development, contrary to the National Planning Policy Framework. I appreciate that the Council are concerned about the location of the site with regards to sustainability. However, I am mindful of the guidance of the PPG and place significant weight up on it.

Conclusion

11. The proposal would not meet the requirements of Part 3 Schedule 2 Class Q.1 (a) (ii) and therefore falls outside the permitted development right. Accordingly for the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR

¹ Reference ID: 13-108-20150305 & 13-109-20150305