
Appeal Decision

Site visit made on 28 February 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 7 April 2017

Appeal Ref: APP/F2415/W/16/3164930

Peace Hill Farm, Horse Hill, Goadby, Leicestershire LE7 9EE

- 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 Mrs Marilyn Burnham against the decision of Harborough District Council.
 - The application Ref 16/00635/PDN, dated 13 April 2016, was refused by notice dated 13 June 2016.
 - The development proposed is change of use of existing agricultural building into dwellinghouse.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Marilyn Burnham against Harborough District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Schedule 2, Part 3, Class Q(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, with Class Q(b) relating to provisions for certain associated operational development. In relation to the appeal proposal, development is proposed in respect of both these classes.
 4. I note there is some discrepancy with the date of the application, compared to the appeal form which indicates the date of the application was 18 April 2016. I have considered the appeal on the basis of the date given on the appeal form.
 5. Having regard to the Council's reasons for refusal, it will first be necessary to consider whether or not the proposal would meet the relevant criteria for permitted development.
 6. If the proposal meets the relevant criteria for permitted development, it will then be necessary to assess the potential impacts of the proposal. The provisions of the Order require the local planning authority to assess the
-

proposed development solely on the basis of its impact on transport and highways, noise, contamination and flooding risks on site, whether the location or siting of the building would make it otherwise impractical or undesirable for the building to be used as a dwellinghouse, and the design or external appearance of the building, taking into account any representations received. My determination of this appeal will be made in the same manner.

Reasons

7. The appeal building is part of Peace Hill Farm. The site comprises a parcel of land at Peace Hill Farm, which is owned by the appellant and her husband. Further parcels of land at Lime Pitt Farm in Illston on the Hill and at Kilby Bridge are sub leased by the appellant to graze sheep and cattle. I understand the appellant farms over a 100 pure bred Texel and Welsh Mules sheep and lambs, together with a number of other animals.
8. Peace Hill Farm is to the south east of the village of Goadby. The building in question is adjacent to the former stables and is largely constructed from timber. An area of hardstanding extends from the gated vehicular access to the front of the stable building. Beyond this is a line of three timber shelters. A further area of hardstanding extends between the pedestrian access from the lane to the building itself. To the north and west are a number of paddocks.

Whether agricultural building and an established agricultural unit

9. Class Q only applies to existing agricultural buildings. Class Q.1.(a)(i) sets out that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on the relevant date. The definition of an agricultural building and established agricultural unit are set out in in Schedule 2, Part 3, Paragraph X of the GPDO.
10. With regards to the building, I understand that planning permission was granted on 14 July 2011¹ for the "*erection of wooden storage shed.*" This was, according to the application form referred to as a feed store. Since this time the appellant has undertaken agricultural activities on the land and on land at Illston on the Hill and Kilby Bridge, having regard to Section 336 of The Town and Country Planning Act 1990 (as amended).
11. Even so, the appellant does not dispute the Council's evidence, which is based on the then application form which referred to "*the existing use of the site as a stable block and paddock.*"
12. I noted on my site visit that the building was served by lighting and had been plastered internally. It also contained kitchen units, a sink, fridge/freezer, gas cooker, two sofas and a log burning fire. In separate rooms there was a composting toilet and storage for animal feed. This is, in part, corroborated by the Council's site visit on 27 May 2016 who also noted a small container of chicks and a large bird cage containing two parrots. However neither of these was present at the time of my visit.
13. I accept that it is clear and undisputed that some agricultural storage is currently taking place within the building and the plans show an area to be used for storage. This is also said to include an egg store and a medicine cupboard. I also appreciate that it is reasonable to provide facilities for an

¹ Council Application Ref: 11/00874/FUL

agricultural worker and suitable office space, however the standard of accommodation within the building goes well beyond what would be necessary to meet that purpose. Thus there were a number of aspects of the building and how it is used which are not typical of an agricultural building. Overall, I consider that the agricultural storage I observed and which was observed by Council officers in their May 2016 site visit was small in comparison with the size of the building. Taking this into account, together with the internal fixtures and fittings and quality of the fit out, casts doubt in my mind as to whether the building is currently solely in agricultural use.

14. The appellant confirms that the land and buildings at Peace Hill Farm have historically been used for equestrian purposes until roughly 2010 or 2011. It is said by the appellant that the equestrian use ceased at this point. Thus, by the appellant's admission, the agricultural use, which is different to an equestrian use, is less than 10 years old. While I am very mindful of the prior approval application in October 2014² and the Council's decision in respect of this, I am unclear on what basis the Council appears to have accepted that there was an established agricultural unit. In any event, the prior approval application was made after the relevant date and so I cannot be sure whether the building is part of an established agricultural unit as per the definition.
15. In terms of whether the building *is so used for the purposes of a trade or business*, I have studied the records and letters provided by the appellant in detail. I understand the site's use maybe the appellant's way of life and that business is increasing each year. The Council have not provided any substantive evidence to the contrary. Thus, the evidence shows that the building is used for the purposes of a trade or business.
16. However, even if I were to consider that the building was solely used for agriculture as part of an established agricultural unit on 20 March 2013 and it is being used for the purposes of a trade or business, this would not address the issue that it is not currently solely in agricultural use. As such, in order for Class Q to apply, the building must be in agricultural use or unused and previously used for agriculture with no intervening use. Based on the evidence before me I am not satisfied that this is the case. Consequently the building does not qualify under Class Q.

Whether development under Class A(a) or Class B(a) of Part 6 of Schedule 2 has been carried out since 20 March 2013?

17. The appellant submits that the building which is subject of this appeal was granted planning permission in 2011 and erected in September 2011. This maybe so, however there is no evidence regarding the land at Illston on the Hill and Kilby Bridge to confirm whether or not development under Class A(a) or Class B(a) have been undertaken since 20 March 2013. Thus, I have little option other than to conclude that the proposal does not satisfy criterion Q1(f).

Whether the proposed development would satisfy the term curtilage?

18. The appellant has confirmed the footprint of the building is roughly 44.59m². Despite different figures from both parties regarding the size of the curtilage, I note the Council have digitally measured the 1:50 Existing/Proposed Plan submitted with the application. The measurement is 44.56m² which is very

² Council Application Ref: 14/01191/FUL

slightly under the building's footprint. On this basis, I therefore conclude that the proposal would fulfil Schedule 2, Part 3, Paragraph X of the GPDO.

Whether the cumulative number of separate dwellings exceeds three?

19. The site at Peace Hill Farm does not contain a dwellinghouse. I noted a single dwelling at Illston on the Hill and no dwellings at the site in Kilby Bridge. I therefore conclude, notwithstanding my findings in respect of the *established agricultural unit* that the proposal would cumulatively not result in more than three dwellings.

Whether the floorspace would exceed 450m²?

20. The appellant has confirmed the dimensions of the building which equates to a floor space of approximately 44.5m². This is significantly below the threshold and given that I am not aware of any other previous development under Class Q, I conclude that the proposal would satisfy criterion Q1(h).

Whether building operations or partial demolition would be reasonably necessary?

21. The appellant explains that partial demolition of the building would not be necessary to carry out the proposal and that any building operations would not extend beyond the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services so as to be reasonably necessary for the building to function as a dwelling.
22. The Planning Practice Guidance³ establishes that this does not include the construction of new structural elements for the building and that the existing building should be structurally strong enough to take the loading which comes with external works. I note the existing timber boards would be retained and that insulation would be installed, the felt roof would be replaced with tiles and windows and doors would be changed to double glazing. The Council query whether the building's construction is capable of carrying a new tiled roof.
23. While I understand both parties have had conversations with the Council's Building Control team, I do not have any evidence of them. In terms of the new tiled roof, no construction details were submitted with the application and despite reference to a structural survey having been undertaken and submitted by the appellant, no such survey is before me to demonstrate that such loadings could be supported by the existing timber structure. I note the roof pitch is shallow and I do not have any details before me to indicate how the tiles would be fixed, whether the existing structure is capable of this or capable of taking the proposed roof tile. Without such details, I cannot be certain that the existing roof would not result in a new structural element being formed which is essential to the building's proposed function as a dwellinghouse.
24. As a consequence, based on the information available, I conclude that it has not been demonstrated that the building as a whole is structurally strong enough to take the loading which comes with the proposed tiled roof considered necessary to provide for its conversion to a residential use. While I do recognise that all the other works can be achieved within the capacity of the existing structure, they do not alter my view that the proposed conversion would not satisfy Q.1.(i)(i)(aa) and (bb).

³ Planning Practice Guidance Ref ID: 13-105-20150305

Other Matters

25. I note the parties' submissions on a number of suggested planning conditions. However I do not consider that this otherwise unacceptable development could be made acceptable through the use of these conditions. I also understand the appellant has exhausted the Council's complaints procedures, but this is a matter which lies outside the scope of this appeal which I have determined on its planning merits alone.

Conclusion

26. Consequently, I conclude that the proposal does not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO. 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 provisions of the Order. Given this finding, it is not necessary to consider, as part of this appeal, the various matters to be assessed in relation to the development, as set out in the Order.
27. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR