
Appeal Decision

Site visit made on 13 March 2017

by Veronica Bond LLB (Hons), Solicitor (non-practising)

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

Decision date: 7 April 2017

Appeal Ref: APP/Y3940/W/16/3161414

Land opposite to Snell Farm, Livery Road, Winterslow, Salisbury

- 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 N Ludlow against the decision of Wiltshire Council.
 - The application Ref 16/07969/PNCOU, dated 11 August 2016, was refused by notice dated 14 October 2016.
 - The development proposed is change of use of existing agricultural building to form single dwelling and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development in my banner heading above from the Council's decision notice as I consider that this succinctly describes what is proposed.

Background and Main Issue

3. Schedule 2, Part 3, Class Q of the Order states that 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 (dwelling houses), together with the building operations reasonably necessary to convert the building, is permitted development.
4. Exclusions are listed in paragraph Q.1 and the Council has not indicated that any of the exclusions detailed at (b) to (m) would apply. The Council contends though that the exclusion at Q.1 (a) – essentially that the site was not used solely for an agricultural use, as part of an established agricultural unit on 20 March 2013. The application followed an appeal¹ which was dismissed in relation to this same exclusion, although the appellant now adduces additional evidence in support of its position.
5. Accordingly, the main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Order.

¹ APP/Y3940/W/16/3142980

Reasons

6. The appeal building is essentially a barn which is associated with surrounding land of approximately 6 acres.
7. Schedule 2, Part 3 paragraph X to the Order contains the definition of 'agricultural use' for the purposes of the Q.1 (a) exclusion. This is effectively that the use is for agriculture for the purposes of a trade or business. There appears to be no dispute that the use of the building has been for 'agriculture', given the evidence of use related to hay cropping. What is in issue is whether that use was for a trade or business.
8. In this regard, in the previous appeal, the appellant relied upon a letter from an agricultural contractor, confirming that the land has been used over the past 19 years for hay cropping, with unsold hay and agricultural equipment stored within the appeal building as required. The Inspector in the last appeal did not deem this adequate evidence of use for the purposes of a trade or business. I take the same view as this gives no detailed evidence of as to the extent of commercial activity.
9. The previous appeal Inspector commented that the land was not registered as an agricultural holding as it has not been put forward for the Single Payment Scheme, in view of its overall size. Letters now produced from the appellant's agricultural consultant indicate that claims have in fact been made pursuant to the Single Payment Scheme and Basic Payment Scheme. The land is also apparently registered on the Rural Land Register (RLR).
10. No evidence is produced by the appellant such as to indicate that payments under either of these schemes are indicative of the operation of a trade or business, and the Council contends that this is not a requirement for receipt of those payments. Further, there is nothing to suggest that this was a key consideration for the previous appeal Inspector in the assessment as to whether a trade or business was operating.
11. As regards registration on the RLR, the Council has indicated that this would require some evidence of a business operation. The evidence of registration on the RLR as provided does not though give any confirmation of agricultural use for the purposes of a trade or business on the relevant date of 20 March 2013, as per the appellant's representations. The appellant also provides evidence of an extremely modest turnover arising from the hay cropping on the land. This is at an extremely low level and very far from indicating any sort of liveable income.
12. The planning permission granted for the building was conditioned to ensure agricultural use and the building has an agricultural appearance. These factors do not though represent any substantive evidence of agricultural use for the purposes of a trade or business.
13. The Council produces no evidence of any enforcement history relating to a breach of condition and adduces no evidence to indicate anything other than agricultural use. However, pursuant to the Order, the Council can refuse prior approval where the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified as being applicable to the development in question.

14. Consequently, on the balance of probabilities, there is insufficient evidence to indicate that the site was used solely for an agricultural use, as part of an established agricultural unit on 20 March 2013. I therefore conclude on the main issue that proposal would not be permitted development under Schedule 2, Part 3, Class Q of the Order.

Other Matters

15. The appellant cites the sustainability credentials of the site and that it is in good condition for conversion to a dwelling. The building is not listed nor within a conservation area. The proposal would also make a contribution towards the Government's aims of increasing rural housing without building in the countryside. These matters offer modest support for the proposed development.

Conclusion

16. Although the proposal would offer modest benefits as outlined, this does not alter the fact that on the evidence before me, it would not represent permitted development. For the reasons above, the appeal fails.

Veronica Bond
INSPECTOR