
Appeal Decision

Site visit made on 19 April 2017

by Michael Boniface MSc MRTPI

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

Decision date: 26th April 2017

Appeal Ref: APP/M1005/W/16/3165458
Home Farm, Pentrich, Derbyshire, DE5 3RE

- 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, Paragraph Q.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Jackie Dickinson against the decision of Amber Valley Borough Council.
 - The application Ref PDR/2016/0020, dated 8 April 2016, was refused by notice dated 7 July 2016.
 - The development proposed is conversion of two existing barns into two dwellinghouses.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Jackie Dickinson against Amber Valley Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The Council did not issue a formal decision notice, having come to the conclusion that the proposal was not permitted development. The appellant relies on an e-mail of 7 July 2016 as the Council's decision. Whilst I note that the Council had sent numerous e-mails before this date setting out its view that the buildings did not benefit from permitted development rights, I have taken the appellant's chosen date of decision for the purposes of this appeal.

Main Issue

4. The main issue is whether the proposal meets the criteria set out at Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) so as to benefit from permitted development rights.

Reasons

5. Class Q permits the change of use of agricultural buildings to dwellinghouses subject to a range of criteria. The first of which is that the site must have been used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. Paragraph X of the GPDO defines an agricultural building as 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. As such, for a building to benefit from permitted development under Class Q they must both be in agricultural use (in the above terms) now and have been so on 20 March 2013.
6. The buildings were not in the ownership of the appellant on that date. A letter from Land Agents, Eaton and Hollis suggests that the previous owner was engaged in agricultural trade or business from Home Farm at that time, but the letter does not describe what the buildings in question were used for and provides little supporting explanation or evidence to support the assertion that the buildings meet the Class Q criteria. No detailed evidence of any agricultural undertaking on the site has been provided, nor any accounts or documentation that would evidence a trade or business use. As such, I am not satisfied that the buildings were used solely for an agricultural use as part of an established agricultural unit on 20 March 2013.
 7. During my site visit there were cattle within the appeal buildings. However, the nature and extent of the buildings use for accommodating cattle is unclear from the evidence before me. The Council suggest a somewhat different use of the buildings during its visit, where horses for domestic use were being stabled. Whilst there is little evidence of this other than the Council's account, the appellant has not disputed the point. This, along with the e-mail from the appellant's agent confirming that the barns were surplus to requirements in April 2014 casts doubt on whether any agricultural use has been maintained since the appellant took ownership. Again, no evidence has been submitted to demonstrate that the buildings are currently used for agriculture for the purposes of a trade or business.
 8. The appellant submitted an agricultural holding number in support of the appeal but no further information accompanied it and the land to which the number relates was not identified, as such I attach this little weight.
 9. Based upon the evidence before me, I am unable to conclude that the buildings were used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or that they are currently so used. On this basis, the buildings do not benefit from the planning permission granted by Class Q of the GPDO.
 10. Given this conclusion, the conditional requirement for prior notification under Class Q cannot apply. Nor can the requirement for the Council to issue a decision within 56 days of the notification. For the same reason, it is not necessary for me to go on to consider the detailed matters for which prior approval can be required.
 11. In light of the above, and having considered all other matters, the appeal is dismissed.

Michael Boniface

INSPECTOR