
Appeal Decision

Site visit made on 25 April 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 19th May 2017

Appeal Ref: APP/T4210/W/17/3168025

**Lower Dickfield Farm, Lower Dickfield, Helmshore Road, Ramsbottom
BL8 4PD**

- 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 Mr Andrew Winstanley against the decision of Bury Metropolitan Borough Council.
 - The application Ref 60866, dated 24 November 2016, was refused by notice dated 19 January 2017.
 - The development proposed is change of use of two buildings to form 2 dwellings.
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Decision

1. The appeal is dismissed insofar as it relates to building 2. The appeal is allowed insofar as it relates to building 1 and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for the change of use of a building to form a dwelling at Lower Dickfield Farm, Lower Dickfield, Helmshore Road, Ramsbottom, BL8 4PD in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2 (1) of the GPDO through application Ref 60866, dated 25 November 2016. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of the GPDO.

Procedural Matters

2. Schedule 2, Part 3, Class Q(a) 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. This appeal relates to Class Q(a) only.
 3. For completeness and clarity, I have used the address from the appellant's appeal form above, as this more accurately reflects the site's location. Furthermore for the same reasons, I have amended the description of development in my formal decision to reflect my findings. It reads "change of use of a building to form a dwelling".
 4. 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. If the proposal meets the relevant criteria for
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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 and whether the location or siting of the building would make it otherwise impractical or undesirable for the building to be used as a dwellinghouse, taking into account any representations received. My determination of this appeal will be made in the same manner, save for matters relating to noise and flooding which I note the main parties' agreement on. I concur with their view.

Reasons

5. The buildings subject of this appeal form part of Lower Dickfield Farm which is to the north-west of Ramsbottom. The farm contains a two storey pitched roof residential dwelling. The northern of the two buildings subject of this appeal ("Building 1") is a portal frame building that was granted planning permission in 2010¹. Yorkshire boarding cover the elevations and metal profile sheeting the roof. There is a large central opening facing fields which extend to the east of the building. The other building lies in-between building 1 and the dwelling. It is constructed from stone and slate ("Building 2"). Building 2 has a split internal composition with large timber doors to the front. It is nevertheless a single building. Access from public footpath No 53 is by way of a concrete track that rises steeply. Public footpath No 53 extends to public footpath No 42. Both are also used as a vehicular access to a handful of properties.

Whether agricultural buildings and an established agricultural unit

6. 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. Schedule 2, Part 3, Paragraph X of the GPDO sets out the definitions of the site, curtilage, an agricultural building and established agricultural unit.
7. The site plan shows two buildings and a curtilage around each building in red which is immediately around the building and no larger than the land area occupied by the buildings. I consider that each building would meet the relevant definitions of the 'site' and 'curtilage'. Thus, I have approached this appeal on the basis that they are two separate sites.
8. The Council do not dispute that building 1 is in an agricultural use as per the definition of an agricultural building as set out in the GPDO. I understand the appellant raises and produces meat for sale and that they keep bees. This is consistent with what I saw on my site visit.
9. With regards to building 2, in the right hand part of the building, evidence points to two chest freezers, a fridge/freezer, a clothes dryer and bee keeping equipment, including a honey extractor. With regards to the latter I noted on site protective gloves, a bee smoker and a protective suit. There was also various animal feed inside the building and photographs indicate an exercise stepper was previously stored in the building. This was not present on my site visit. Insofar as the contents of the freezers and the fridge/freezer, the appellant suggests that they store meat for sale. The Council have not disputed this and I noted on site quantities of portioned and wrapped meat,

¹ Council Application Ref: 52846

including large joints which seem to be considerably beyond what would reasonably be stored by a typical household. This is a matter of fact and degree, but based on the evidence before me, the use of this side of building 2 appears to reflect a small scale agricultural use.

10. Evidence, insofar as the left hand side of building 2 points to the storage of domestic related goods, such as a wheelbarrow, paint tins, buckets and other DIY equipment and gardening equipment. I also noted several brushes and ladders inside this part of building 2. Collectively, these items, in my opinion are not typical items that would be stored in an agricultural building. They are items typical of a domestic residential use.
11. So, while the appellant states that building 2 was solely in agricultural use on 20 March 2013, the Council point out there is no evidence of this. I accept there is an element of fact and degree, but on the evidence before me, even if building 2 is currently partly being used for the purposes of a trade or business, I agree with the Council that this would not address the issue that this building, as a whole, is not currently solely in agricultural use and now has a mixed agricultural/domestic storage use.
12. As such, in order for Class Q to apply, building 2 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 2 does not qualify under Class Q. However, building 1 does and as it is clearly physically and functionally severable from building 2.

Transport and highways

13. The narrow access to the site rises steadily and more steeply in parts from Kibboth Crew. The surface, which is partly broken concrete, is shared between pedestrian and vehicles. As a result, the existing access presents difficulties, in the form of its gradient, surface and width. I understand it is used as a popular public footpath and that there are limited passing places along the access. Nonetheless, the route is relied upon by existing residential occupants, including those at Lower Dickfield Farm.
14. Although the appellant refers to Schedule 2, Part 3, Paragraph W of the GPDO, I recognise the views of the Council's Head of Engineering and the Rights of Way officer. However the access and footpath No 53 are generally quiet in nature and secluded. While any extra regular traffic is likely to be perceptible to users of the highway, the increase in movements would only relate to a single dwelling. Even though users of the surface would be close to one another, there are good sight lines along the access and footpath. Moreover, the access would, despite this appeal, remain to be deficient and excessive in length by Greater Manchester Fire and Rescue Service requirements. Although comments were made that suggested the submitted plans were insufficient, this was not a reason for refusal and in any event, I consider the plan meets the requirement of Schedule 2, Part 3, Paragraph W(2)(b) of the GPDO.
15. On this basis, I am not satisfied that vehicles entering or leaving the site, would directly lead to increased conflicts between vehicles and users of the public footpaths, given the current use of the access and footpath. Thus, I do not share the Council's view that the proposal's effect would be severely detrimental to highway safety.

Contamination

16. The Council suggest building 1 could have been used to store fuel, fertilizers, chemicals, hay or housed livestock. These could, in the Council's view, lead to contamination of the land. The intended future residential use of building 1 is a sensitive use. However, notably, comments from the Council's Environment Section only suggest the site is potentially contaminated due to its use as a farm. This is not a conclusive view as to whether the site is contaminated land, despite the appellant's resistance to providing an assessment, especially given the walls, floors and roof will all be sealed.
17. I recognise the Council's point that building 1 could include outside space, garden and soft landscaping. While no specific details are before me, it has been confirmed by the appellant that it will not be necessary to disturb any land proposed as curtilage.
18. Inside building 1, I saw a pen had been formed and the ground was covered with bedding for use by livestock. Other items, such as logs and a smaller trailer were also being stored. The activities inside the building seem to be small scale and not an intensive form of agriculture and there is no evidence to corroborate the suggested storage of fuel, fertilizers and chemicals. I also understand that there are no recorded nuisance or pollution instances at or next to this site in the last 12 months. So, even though I am mindful of the agricultural use and paragraph 120 of the National Planning Policy Framework (the Framework), equally I am not satisfied that significant harm is being caused or that there is the significant possibility of harm being caused to receptors. Consequently, on the available evidence and with regards to the proposed mitigation, I do not consider that the site is contaminated land as described in Part 2A of the Environmental Protection Act 1990, having regard to the Contaminated Land Statutory Guidance².

Impractical or undesirable

19. Properties in the nearby area lost their electricity supply as a result of a landslide in December 2015, however the farm is still served by a generator and building 1 has an electricity supply as I noted plug sockets, switches and strip lighting. I also gather that building 1 has a water supply, by way of a natural spring that also serves Lower Dickfield and Lower Dickfield Cottage.
20. The arrangements are therefore unusual. However the Planning Practice Guidance³ explains that the location of an agricultural building *where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval*. For the reasons set out earlier, I do not agree with the Council's view that the proposal would be undesirable on transport and highway grounds. Furthermore, as the site has electricity and water in the same manner as nearby properties, even if they are not the typical mains connections, I do not agree with the Council's assessment that the location of the building makes it impractical or undesirable for it to change from an agricultural use to a residential use.

² Department for Environment, Food and Rural Affairs, Environmental Protection Act 1990: Part 2A, Contaminated Land Statutory Guidance

³ Planning Practice Guidance, Paragraph: 109 Reference ID: 13-109-20150305

Other matter

21. As this is a Class Q(a) only appeal, I have considered the scheme having regard to Q.2(2) which explains that prior approval is only required under subparagraphs (1)(a) to (e) and the provisions of paragraph W. As a result, the design or external appearance of building 1 are not matters before me.

Conclusion

22. For these reasons, I conclude that the appeal should be allowed and approval granted insofar as it relates to building 1 and dismissed insofar as it relates to building 2.

Andrew McGlone

INSPECTOR