
Appeal Decision

Site visit made on 27 June 2017

by Michael Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 13 July 2017

Appeal Ref: APP/G2713/W/17/3171405

Agricultural barn, Ashlands, Welbury DL6 2SB

- 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 GPDO').
 - The appeal is made by Mr David Ozelton against the decision of Hambleton District Council.
 - The application Ref: 16/01945/MBN, dated 13 October 2016, was refused by notice dated 13 December 2016.
 - The development proposed is conversion of existing agricultural barn to 2 no dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is whether the proposal would accord with the requirements for development permitted under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

3. The appeal site lies in open countryside to the south-east of Welbury and includes a portal-framed, single-storey building externally finished in brick, blockwork and steel cladding under a profiled sheet roof. The associated dwelling, Ashlands, lies to the west of the building adjacent to an access from a lightly trafficked rural road. The surrounding land is predominantly in agricultural use and includes the land associated with the 4.5 hectare holding which, at the time of my visit, was being grazed by sheep. The subject building was erected in 2007 as part of a proposal for two agricultural buildings granted permission in 2006¹.
4. Class Q of the GPDO grants permission for the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellings). Paragraph Q.1 states that development is not permitted by Class Q if, amongst other things, (a) the site was not used solely for an agricultural use as part of an established agricultural unit:
 - (i) on the 20 March 2013, or

¹ Council ref:06/00729/FUL

- (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or
 - (iii) in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins.
5. The appellant submits that since its construction the building has been continuously used for agricultural purposes in association with the holding, and any domestic paraphernalia stored within it has been incidental to the residential use of the farmhouse. The Council argues that the building has not been used solely for agricultural purposes and refers to various items of a non-agricultural nature stored in the within it, including building materials, a cement mixer, garden chairs and lawnmowers. It suggests that the building is in mixed use comprising agricultural, domestic and as a builder's store.
 6. At the time of my site visit I observed equipment, materials and other items in the building which could reasonably be regarded as being consistent with the agricultural use of the holding. It included two tractors, a fork lift truck, animal feed, fence posts, straw bales, wood shavings, small incubators and various hand tools. There were also a few makeshift animal pens which were unoccupied. However, there was also a significant number of other items and equipment which could not reasonably be associated with the agricultural enterprise. They included a domestic rotavator, a ride-on mower, lawnmowers, strimmers, wheelbarrows, scaffolding, paint, cement, timber sheeting and saw benches.
 7. The onus of proof is upon the appellant to show whether or not the building has been used solely for agricultural purposes as part of an established agricultural unit, and the relevant test is 'the balance of probability'. Whilst the appellant's evidence does not have to be corroborated by independent evidence to be accepted, it has to be sufficiently precise and unambiguous.
 8. On the basis of the evidence before me and what I observed at my visit, I find that the building has been used in part for domestic purposes to a degree which is more than incidental to the main farming function of the building that the appellant suggests. Accordingly, the building has not been used solely for an agricultural use as part of an established agricultural unit. As such, the proposal does not satisfy the requirements of Schedule 2, Part 3, Class Q of the GPDO and therefore is not development permitted by the Order.

Conclusion

9. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

Michael Moffoot

Inspector