
Appeal Decision

Site visit made on 21 August 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 7th September 2017

Appeal Ref: APP/E3525/W/17/3174411

Dovecote Farm, Thelnetham, Diss, Norfolk IP22 1JH

- 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 Mrs V Woodward against the decision of St Edmundsbury Borough Council.
 - The application Ref DC/16/2509/PMBPA, dated 10 November 2016, was refused by notice dated 3 January 2017.
 - The development proposed is (i) Change of use of agricultural building to dwellinghouse (Class C3) to create 1 no. dwelling (ii) associated operational development.
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Decision

1. The appeal is dismissed.

Procedural matter

2. I have used the description of the development taken from the Council's decision notice, and the appellants appeal form, as none was contained on the application form.

Main Issues

3. The main issues are:
 - whether or not the proposal constitutes permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) and
 - If the proposal is permitted development under the provisions of GPDO 2015, the effect of the proposal on highway safety and
 - Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order

Reasons

Permitted development

4. Class Q of 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 of the Schedule to the Use Classes Order and any building operations reasonably necessary to convert the building. Development is permitted under Class Q subject to a number of conditions, limitations or restrictions which are set out under paragraph Q1(a) to (m).
5. The Council's case is that the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013 as required by paragraph Q.1(a). For the purposes of Part 3 of the GPDO, an agricultural building is defined as a building used for agriculture and which is so used for the purposes of a trade or business and agricultural use refers to such uses.
6. At the time of my site visit the building was unoccupied and empty. The land was uncultivated and overgrown. My attention has not been drawn to any relevant planning permissions that specifically cover the building the subject of the appeal. The appellant asserts that the last lawful use of the building was for agricultural storage. In support of this, a tenancy agreement has been submitted which covers the period from 2 March 2009 to February 2016. Paragraph 5.1 of the tenancy states that "*the tenant agrees he will farm the land for the purpose of a trade or business and maintain the character of the tenancy as primarily agricultural.*"
7. The tenancy agreement covers the building the subject of the appeal together with two other buildings on the site, the intervening land in between the buildings and land to the rear of the northernmost building. The appellant suggests that the tenant leased the fields to make threshing straw for thatching with the hay being produced stored in the building.
8. However, there is no evidence to suggest that the use referred to in the lease was the sole use of the land or building, or that it was at a sufficient scale to represent a lawful use. The agreement only requires that character of the tenancy is maintained primarily as agriculture. In this respect I note that in 2010, after the commencement of the tenancy agreement, a Certificate of Lawfulness for Existing Use - (i) Maintenance, repair, assembly and storage of classic cars in Building 3 (ii) storage of cars, parts and various goods on land to north of Building 3 (SE/10/0504) was granted. Building 3 and land to the rear is contained within the site plan accompanying the tenancy agreement. As a result, I am not persuaded that the building was part of an established agricultural unit. Furthermore, there is no evidence that the building has been used solely for agricultural storage for a sufficient length of time to become the lawful use of the building.
9. The appellant states that she inspected the barn during the tenancy and the building was being used for the storage of agricultural equipment. The appellant's Phase 1 GeoEnvironmental Assessment (the Assessment) states in para 5.3 'All material that was previously stored in the pre-existing buildings has been stockpiled immediately east of the plot on Dovecote Farm land.' Site photos taken at the time of the GeoEnvironmental Assessment walk over are provided within the report and while there is some old farm machinery there are also other items such as folding chairs, old furniture as well as bricks,

batteries and paint. I would concur with the Council that this would suggest general storage as opposed to purely agricultural storage.

10. I appreciate that the Assessment was undertaken in 2016 and the relevant date for the purposes of Class Q is 20 March 2013. However, there is no substantiated evidence to suggest that the storage use was any different in 2013.
11. For the reasons above, I am not satisfied that sufficient evidence has been submitted to demonstrate that, on the balance of probabilities, the appeal premises was used solely for agricultural use on 20 March 2013 or was part of an established agricultural unit on the relevant date. Therefore, the proposal before me is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, I conclude the proposal is development for which planning permission is required. An application for planning permission would be a matter for the Local Planning Authority to consider in the first instance.
12. Given my findings above it is not necessary for me to consider the related merits of the prior approval application, against those matters set out in Paragraph Q.2 of Class Q of the GPDO.

Conclusion

13. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR