



Appeal Decision

Site visit made on 9 October 2017

by **Daniel Hartley BA Hons MTP MBA MRTPI**

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

Decision date: 19 October 2017

Appeal Ref: APP/W3005/W/17/3181089

The Barn, Land at Triangle, Felley Mill Lane (South), Underwood, Nottingham NG16 5FQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Class Q(a) and Q(b) of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Steven Lewis against the decision of Ashfield District Council.
 - The application Ref X/2017/0013, dated 28 March 2017, was refused by notice dated 23 May 2017.
 - The development proposed is the change of use from an agricultural building to a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On my site visit, I requested that I be authorised to also view inside a second stable building which is located adjacent to a caravan and within the blue edge of the submitted plans. The appellant indicated that this was not possible as the land was no longer in his ownership and had been sold to another party.
3. I was able to view inside only part of the other stable building located in the south west corner of the site as some of the stables were locked. The appellant indicated that he could not locate the keys. In respect of the stables that I could see, it was evident that one had recently been used for the stabling of a horse and the other had been prepared for the stabling of a horse.
4. I was able to view inside the appeal building and this was being used for the storage of a small amount of hay.

Main Issues

5. The main issues are (i) whether or not the proposal is permitted development and, if so, (ii) whether or not the proposed location or siting of the building would make 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

6. The Council has confirmed that the appeal site is adjacent to a site of special scientific interest. Class Q.1. (k) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) states that development is not permitted by Class Q if *"the site is, or forms part of a site of special scientific interest"*. At my request, the Council has confirmed that the site is not & does not form part of a site of special scientific interest.
7. Class Q.1. (a) (i) of Part 3 of Schedule 2 of the GPDO states 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 20th March 2013"*. I am satisfied, on the evidence that is before me, that a number of agricultural activities did take place on the site on 20 March 2013. However, a stables building, which was approved by the Council on 7 June 2007 (Ref 07/06/2007), is located in the south west corner of the site. There is also another stable building close to a caravan.
8. The appellant contends that horses were not *"stabled up to and including"* 20 March 2013, but if this were the case I would have expected such comments to have been reasonably substantiated. This could have been by means of the submission of accompanying evidence to include photographs or sworn affidavits from the appellant or other owner(s) of the horses for the relevant time period, as well as a much more detailed account of the way in which all of the site and buildings were being used. Collectively, such evidence would likely have conclusively determined whether or not there was also a *"horsiculture"* use on the site on 20 March 2013.
9. The appellant has indicated that any horses on the site have been used solely for grazing purposes. Whilst grazing is an agricultural activity, taking into account Section 336 of the Town and Country Planning Act, the appellant has not provided me with enough detailed evidence relating to the use of the aforementioned stable buildings (including on 20 March 2013), the numbers of associated horses that were on the site, the manner in which any such horses were kept on the land and the extent to which any of the hay kept in the appeal building was fed to horses in any of the stable buildings.
10. Whilst the appellant suggests that the approved stable building was not used by horses up to and including 20 March 2013, I have not been provided with any information relating to the specific use of such a building from its construction up to 20 March 2013. If it had been reasonably proven that horses had not been stabled in the building up to and including 20 March 2013, I would have also expected more information about the specific use of the stable building during this time including whether or not it was used for an alternative purpose. In addition, I have very little information about the use of the other stable building and whether or not it had any functional relationship with the appeal building/site on 20 March 2013.
11. In the absence of the above information / compelling evidence, it has not been possible for me to fully determine whether or not the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. Therefore, I am not in a position to come to a conclusion on this matter and

consequently cannot conclude that the proposal would be development permitted by the GPDO.

Impractical or undesirable

12. As I have found that there is insufficient information provided to demonstrate that the proposal would be development permitted by the GPDO, the detailed prior approval matters, including whether or not the proposed location or siting of the building would make 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, do not therefore fall to be considered as part of the determination of this appeal.

Conclusion

13. For the reasons outlined above, and taking into account all other matter raised, I conclude that the appeal should be dismissed.

Daniel Hartley

INSPECTOR