
Appeal Decision

Site visit made on 30 October 2017

by Graham Wyatt BA (Hons) MRTPI

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

Decision date: 9th January 2018

Appeal Ref: APP/F2605/W/17/3180207

Stable Croft, Roudham Road, Roudham, Norfolk NR16 2RN

- 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 & Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Mr Glynn Jones against the decision of Breckland District Council.
 - The application Ref 3PN/2017/0037/UC, dated 2 May 2017, was refused by notice dated 23 June 2017.
 - The development proposed is change of use of agricultural building to dwelling (C3).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site was used solely for an agricultural use as part of an established agricultural unit and is therefore permitted development.

Reasons

3. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) allows a 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 (dwellinghouses) of the Schedule to the Use Classes Order. Paragraph Q.1 sets out various circumstances in which development is not permitted by Class Q.
4. Paragraph X of Schedule 2, Part 3 of the GPDO states that an "agricultural building" means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business. The GPDO further sets out that an "established agricultural unit" means agricultural land occupied as a unit for the purposes of agriculture. Paragraph Q.1.(a)(i) 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 the 20 March 2013 (the relevant date). Thus, in order to meet the terms of Paragraph Q.1(a), the use of the buildings and any land within their curtilage must have been solely in agricultural use, run as part of a trade or business, on 20 March 2013, or when it was last in use, if not in use on that date.
5. The appeal site relates to a building that has two lean-to elements attached to it. At the time of my visit the buildings contained a variety of items, some of which could be used for the purposes of agriculture, such as a tractor.

However, the buildings also contained a number of non-agricultural items such as a children's play house, a patio heater, plastic chairs and other domestic items. A range of building materials and tools were also within the building to be converted. The buildings therefore appeared to be put to a mixed use.

6. The application form simply states that the last use of the building was on 20 March 2013 and was used for agriculture. The written statement in support of the planning application states that the appellant purchased the smallholding 7 years ago whereby hay was made and sold for the holding and the appeal building was used as a workshop and tractor and hay store. Two letters¹ have also been provided which support the appellant's statement that hay has been produced on the site, some of which is stored in the appeal building. The appellant also asserts in his statement of case that the buildings were, "used for machinery (tractor/loader etc.) storage, hay storage and small tools. These are clearly agricultural uses".
7. However, taking account of how the appellant currently uses the building, I am not persuaded that the storage of a tractor, hay and small tools amounts to an agricultural use as the storage of equipment is not evidence that the buildings were being used as part of an agricultural unit that was being operated for the purpose of trade or business. Agricultural equipment could be stored within a building, regardless of whether any agricultural use was taking place on the unit.
8. The GPDO requires that the 'site' is solely in agricultural use, and not just the buildings themselves. While I have letters confirming the sale of the hay to Mr. Callow or Mr. Brown in 2009, 2010 and 2011, I cannot be certain that the production of hay continued after 2011 or whether the use to which the site has been put amounted to a solely agricultural use and continued to the relevant date. I have not been provided with an agricultural holding number or any business or stock records. The onus of proof is on the appellant and I have not been provided with any substantive evidence that on the balance of probabilities the site was used solely for agriculture on the relevant date.
9. Paragraph W.(3) of the GPDO states that the "local planning authority may refuse an application where, in the opinion of the authority the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question". Consequently, I am not satisfied that, based on the information before me, the use of the building accords with Paragraph Q.1(a)(i) and so would be permitted development.
10. The Council have also refused permission as the appellant has failed to qualify whether the building would comply with the limitations as set out at Paragraph Q.1(b), Q.1(g) and Q.1(i). Paragraph Q.1(b) relates to the cumulative floor space of the building changing use which must not exceed 450 square metres. The statement submitted in support of the prior approval application states that the two lean-to elements would be removed from the building and that the remaining building, which is to become the dwelling, would be reduced in size from 138 square metres to 100 square metres over two floors resulting in a

¹ Grange Farm dated 9 July 2017 and J&C Callow & Sons dated 17 July 2017

floor space of 200 square metres. The proposal would therefore comply with Paragraph Q.1(b).

11. Paragraph Q.1(g) states that development is not permitted by Class Q where the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. The site plan² submitted with the application details the dotted areas that are the existing building and those areas to be removed from the building to carry out the development. It is clear from this plan that the development would not extend beyond the external dimensions of the existing building. The development would therefore comply with Paragraph Q.1(g).
12. Turning to Paragraph Q.1(i), this states that development is not permitted by Class Q where the development would consist of building operations other than those listed at Q.1(i)(i)(aa) and (bb). While an assessment³ of the building was provided with the application, no structural details of any part of the building has been undertaken. The appellant considers it unreasonable for the Council to request a structural survey as this is not a requirement of the GPDO. Notwithstanding that the GPDO does not expressly require a structural survey to be submitted, again Paragraph W.(3)(b) allows a local planning authority to refuse an application where the developer has provided insufficient information. This would apply to the criteria within Paragraph Q.1(i) outlined above.
13. I am mindful that the Planning Practice Guidance (PPG) states that the permitted development right allows for works reasonably necessary for the building to function as a dwelling. However the PPG also states that, "It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right⁴".
14. It is for the appellant to provide evidence that the building is strong enough to be capable of being converted and in the absence of any detailed assessment, I am not able to determine whether any works to the building could be defined as reasonably necessary. On the basis of the information before me, I am not satisfied that the works required would fall within the scope of Paragraph Q.1(i).

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR

² Plan 0782/02

³ Acorus Rural Property Services dated April 2017

⁴ Paragraph: 105 Reference ID: 13-105-20150305 Revision date: 05 03 2015