
Appeal Decision

Site visit made on 20 February 2018

by Alex Hutson MATP CMLI MARborA

an Inspector appointed by the Secretary of State

Decision date: 16th March 2018

Appeal Ref: APP/X2220/W/17/3180322

Sheerwater Farm Barn, Sheerwater Road, Ash, Canterbury, Kent CT3 7LG

- 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 (GPDO).
 - The appeal is made by Anthony Tharp Skelton against the decision of Dover District Council.
 - The application Ref DOV/17/00002, dated 15 December 2016, was refused by notice dated 14 March 2017.
 - The development proposed is conversion of barn to dwelling with some works of alteration.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The application and appeal was made by Mr P Skelton. However, during the course of the appeal, he passed away. On the basis of information provided, I am satisfied that the appeal can continue in the name of Anthony Tharp Skelton.

Main issue

3. The main issue is whether the proposal constitutes permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

Reasons

4. The appeal site comprises a modern, steel framed, metal clad building¹ located within a wider parcel of land. It is my understanding that the original planning application for the appeal building was made on the basis of a need to provide storage for hay and machinery to support the farming activity of a larger farm holding, known as Sheerwater Farm, and that the Council granted planning permission for it on this basis.
5. Schedule 2, Part 3, Class Q of the GPDO permits the change of use of an agricultural building and any land within its curtilage to a residential use, along with building operations reasonably necessary to convert the building. This is

¹ Approved under Ref DOV/10/00474

subject to a number of situations where development is not permitted, as set out in Paragraph Q.1, and to conditions, as set out in Paragraph Q.2.

6. Development is not permitted under Paragraph Q.1(a) if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. It is the Council's view that insufficient evidence has been provided to demonstrate this to be the case.
7. The appellant has provided a photograph dated 9 September 2012 which shows some ground works being undertaken in preparation for the erection of the appeal building. An invoice dated 18 February 2013 has also been provided. This is from a company that specialises in steel frame buildings and is addressed to the original applicant. Whilst it contains no further information, the Council does not dispute that, having previously corresponded with the company, the invoice relates to the completion of the appeal building. I have no compelling reasons to consider otherwise. In addition, the appellant has provided a copy of an insurance policy taken out on 8 February 2013 which covers the cost of rebuilding a 'barn' at Sheerwater Farm. The Council does not dispute that it relates to the appeal building and I have no substantive reasons to dispute this either.
8. The appellant refers to payment for a concrete base to the appeal building on 13 March 2013 and details of a bank account from which this was paid. Though this information does not appear to have been provided, the Council appears to have seen it and does not dispute it. I have no reason to either. Though I recognise that concrete takes time to dry, the Council's assertion that it would take 28 days is unsubstantiated. Moreover, the appellant indicates that the concrete was poured prior to this date in any case and that quick drying concrete was used. I have no substantive reasons to doubt that quick drying concrete was available at the time and it seems normal to me to pay for services at some point after works have been undertaken.
9. Whilst these factors point to the appeal building having been built and available for use on the 20 March 2013, I note that the original applicant sold and moved away from the farmhouse in August 2012. I understand that this was as a result of a serious illness. Though he retained the associated agricultural land with the aim of farming it himself, the evidence indicates that this did not occur. Rather, the appellant contends that an informal annual agreement allows an adjacent farmer to use the land for grazing and to cut grass for hay. I have been provided with some account information showing some payments to the original applicant from the adjacent farmer in support of this contention. However, the account information appears to date back no further than September 2014. Thus, it is not evident whether this arrangement was in place on 20 March 2013. Moreover, the appellant sets out that the agricultural operations undertaken by the adjacent farmer require little need for storage. Therefore, I cannot be certain that, on 20 March 2013, there was any agricultural activity taking place at Sheerwater Farm that necessitated the use of the appeal building for agricultural purposes.
10. I have had regard to some affidavits which have been provided in support of the appellant's case. However, these alone are not sufficient to demonstrate any agricultural activity occurring at Sheerwater Farm on the 20 March 2013 and therefore, they do not adequately demonstrate the necessity for and

agricultural use or purpose of the appeal building at this time, no matter what farm related items may have been stored within it.

11. In light of the above, I consider the evidence to be insufficient to demonstrate that the appeal building was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. As such, the proposed change of use does not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO.
12. The Council also raises a concern in respect of the proposed area of curtilage. Schedule 2, Part 3, Paragraph X of the GPDO states that, for the purposes of Class Q, curtilage means (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building.
13. The appeal building occupies an area of land of approximately 105 square metres (sqm). Thus, the curtilage should not exceed this figure. The application form indicates that the curtilage would be 810sqm. Nonetheless, the appellant claims this to be a typographical error and that the area of curtilage would not exceed 105sqm. The appeal site is edged with a red line on the submitted location plan. It is apparent from this plan that the area of land shown around the appeal building and within the red line does not exceed the area of land occupied by the appeal building. Therefore, notwithstanding the information provided on the application form, I am content that the proposal satisfies Schedule 2, Part 3, Paragraph X of the GPDO in respect of curtilage. However, my above concerns in respect of the use of the appeal building on 20 March 2013 prevail.

Conclusion

14. For the reasons set out above and having regard to all other matters, including access and the lawfulness of the appeal building, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR