
Appeal Decision

Site visit made on 28 May 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 01 August 2019

Appeal Ref: APP/R1845/W/19/3222905

**Barn 5, Woodside Farm, Tanwood Lane, Chaddersley Corbett,
Worcestershire DY10 4NX**

- 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 Order)(England) Order 2015 (as amended)
 - The appeal is made by Mr Barry Connally against the decision of Wyre Forest District Council.
 - The application Ref 18/3077/PNRES dated 14 November 2018 was refused by notice dated 9 January 2019.
 - The development proposed is prior notification for a change of use from an agricultural building to a dwelling house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) 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 dwelling house of the Schedule to the Use Classes Order. Class Q (b) permits any building operations reasonably necessary to convert the building.
3. Development is permitted under Class Q subject to a number of conditions, limitation or restrictions which are set out under paragraph Q.1 (a) to (m). The Council's case is that Class Q.1(a) is not met because the site was not used solely for agriculture as part of an established agricultural unit on 20 March 2013 or in the case of a building which was last in use before that date but was not in use on that date, when it was last in use.

Main Issue

4. The main issue in this appeal is therefore whether the appeal site was used solely in agricultural use, as part of an established agricultural unit, on 20 March 2013 or when last in use in accordance with Schedule 2, Part 3, Class Q.1(a).

Reasons

5. The appeal building is a barn adjacent to four barn conversions within the former Woodside Farm complex. The barn lies to the northeast of the original farmhouse and has an access off a shared vehicular track that serves the farm house and the other barn conversions.
6. An established agricultural unit is defined in paragraph X of Part 3 of the GPDO as agricultural land occupied as a unit for the purposes of agriculture on or before 20 March 2013. The GPDO also provides interpretation in Paragraph X that an agricultural building is a building used for agriculture and which is so used for the purpose of a trade or business.
7. The Council accepts that there was an established agricultural unit on the land in the past but does not consider that the barn was necessarily being used solely for agriculture on the 20 March 2013 as the barn had not been in a good state of repair for some time and was not therefore suitable for agricultural use. A photograph taken in 2004 shows the building in a poor state of repair with a hole in the roof and no farm track leading to the building. A later photograph taken in 2013 shows the same hole in the roof and the Council therefore doubts that the building was suitable for use as a pen for cattle or a lambing pen or use as a feed store. The photographs taken by the Council in November 2014 also show the poor state of repair of the barn with part of the roof missing and also show the very open middle section which would provide limited animal shelter.
8. The appellant's evidence includes a statutory declaration by Mr Kim Wells, the son of the previous owner, Mr Bernard Wells who worked the farm from 1961 until January 2014. A photograph of a separate feed store marked at point B on a plan is provided and the barn is separately marked at point A. The red line of the plan identifying buildings A and B shows a farm of some considerable size and there is limited information with regard to the barn itself. No evidence of the extent or details of the operation of the farm have been supplied.
9. The declaration includes a letter from Steve Morris & Co Limited Agricultural dated the 17 October 2018 which states that the company supplied pig, poultry and cattle feeds to Woodside Farm. However, the letter refers only to the supply of feed during the 1980s and the 1990s and does not therefore assist in assessing whether the barn was part of an agricultural unit at the relevant date of 20 March 2013.
10. The Council believes that the site may have been used for the keeping of horses for exercising and riding since 2005 with a horse lunge area and horse walker and dressage area to the northeast of building and some of those facilities are still present. The photographs supplied by a local resident do illustrate the proximity of the barn to equestrian uses particularly the ménage. Whilst, the proximity of equestrian facilities does not, by itself show that equestrian use has taken place at the barn, there is evidence that an equestrian business operated from Woodside Farm. Local residents also refer to previous planning applications that suggest that equestrian use was being pursued on the farm.
11. There is a brief email from to the appellant from tenants who state that they rented stables at Woodside Farm from Bernard Wells, the previous owner of

Woodside Farm from October 2013 until May 2015 and that the Dutch barn was never used for equestrian purposes. No plans or further information is provided. However, the statutory declaration of Kim Wells states that the whole of the red line plan attached was where cattle and sheep grazed up until 2014. The relationship between the equestrian use and the farm use at Woodside Farm up until Mr Bernard Wells' death in January 2014 is therefore not clear.

12. The appellant's evidence largely relies upon the statutory declaration and the email from the tenants. Class Q requires that the use of the building on 20 March 2013 was solely for agriculture as part of an established agricultural unit and I am not satisfied that this has been demonstrated. Aspects of the evidence before me, including the condition of the building particularly in 2014, the operation of an equestrian business from Woodside Farm, and comments in previous applications are factors which raise significant doubt in that regard.

Other Matters

13. The appellant has referred to an appeal decision Ref APP/X1545/W/3198348 in support of its case. All appeals will be assessed on their own particular facts and merits. The facts of the previous appeal decision are materially different from the facts of this appeal and I note in that appeal, it was not disputed that agricultural use was taking place at the relevant date. The issues in that appeal included whether a previous use had been abandoned as it was agreed that the agricultural use ceased in 1988.
14. A number of other matters have been raised by objectors that do not directly relate to the issue of this appeal.

Conclusion

15. Based on the evidence before me, I am not satisfied that the use up to or on 20th March 2013 was for solely agricultural purposes as part of an established agricultural unit. For those reasons, I conclude that the change of use would not satisfy the requirements of Schedule 2, Part 3, Class Q(a) of the GPDO and therefore is not development permitted by it.
16. For the reasons given, the appeal is dismissed.

E Griffin

INSPECTOR