



Appeal Decision

Site visit made on 16 September 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2019

Appeal Ref: APP/V2255/W/19/3232284

Oak Barn Farm, Yaughar Lane, Hartlip ME9 7XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Twigg against the decision of Swale Borough Council.
 - The application Ref 18/506338/PNQCLA, dated 5 December 2018, was refused by notice dated 29 January 2019.
 - The development proposed is an application under schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 as to whether prior approval is required for change of use from agricultural buildings (Barns 4 and 5) to two dwellings (Class 3) and associated development.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, under Article 3(1) and Schedule 2, Part 1, Class A, Part A.4(7) require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made on the same basis.

Main issue

3. I consider that the main issue is whether the proposed development complies with the limitations applicable to development permitted; and if so, whether prior approval should be granted.

Reasons

4. The application sought prior notification for the change of use of two agricultural buildings (Barns 4 and 5) under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015. The main considerations are those of Part Q of the GPDO (England) 2015, as amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) (Order) 2018 (the GDPO).
5. The site is located within the countryside and outside the built up area of Hartlip. The M2 lies to the south of the site beyond which is an Area of Outstanding Natural Beauty. Access is gained from Yaughar Lane down a long

driveway. Oak Barn Cottages lie at the entrance to the to the access drive. There are a number of buildings along the south west of the access track and a number of mobile homes to the north east.

6. At my site visit, which is just a snapshot in time, I noted that along the access, Barn 1 although I was unable to ascertain its use. Barn 2 had both a garage and stable door and Barn 3 was in use as stables, with a number of loose boxes. The two barns subject to this appeal, were sited in a small yard to the west of the access. There was a mobile home, a trailer and some scrap metal stored within this yard. A large field lay to the rear of the subject barns. I noted that part of the field had been separated using heras style fencing and there were a number of horses grazing in this area. The remainder of the field was laid to grass.
7. Barn 4 was rectangular, partly timber clad and constructed of blockwork under a slate roof. It was partially divided into three bays, although the walls did not run the full width of the building. One of three bays contained a flatbed trailer, the second a small tractor and the third appeared to be used as a workshop. Barn 5 had a polythene covering on the floor, prior to replacement of the original floor. There was a partly built separate 'room' within the barn, although I saw no obvious use for it. The barn was connected to electricity and there was a bale lifter and dumper stored inside, together with a small number of round bales. I also noted a number of wrapped haylage, or silage bales stored to the side. Barn 5 appeared to have an informal open extension to the rear and this contained a significant quantity of domestic style storage.
8. Class Q of the GPDO permits "(a) 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; and (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule" subject to a number of criteria and limitations.
9. 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:
 - (i) on 20th March 2013, or
 - (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or
 - (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;
10. For the purposes of Class Q, it is therefore necessary to establish that the one of the above criterion are satisfied. The evidence supplied by the Appellant states that in the case of Barn 4, this was completed and in use prior to 20 March 2013, and that use continues. In the case of Barn 5 although building work commenced in 2007, the roof was not completed until 2017, following its purchase by the Appellant. Nonetheless the yearly lease documents, indicate that both barns were being leased to Mr Bealing from 1 March 2012. On the basis of this I consider that it must be demonstrated that both buildings were in solely agricultural use, rather than a mixed agriculture and equestrian use, on 20 March 2013.

11. The previous history of the site indicates that it was in use for both agriculture and equestrian for the keeping of horses. The previous application which included Barn 3, in addition to Barns 4 and 5 was refused on the basis that the barns were in a mixed, rather than solely agricultural use. The current appeal relates only to barns 4 and 5, asserting that barn 3 was the only barn used for equestrian purposes.
12. Turning to the submitted evidence, Mr Michael Irwin, the previous owner of the site, has produced a letter and photographs that indicated that he used an agricultural contractor Mr Bill Bealing. The letter provides a number of dates between 1 March 2010 and 31 October 2016. He provides five copies of written seasonal agreements between 2012 and 2016. These indicate an agreement between Mr Irwin and Mr Bealing, for the latter to use Barns 4 and 5 for storage of farm equipment and hay together with the open fields for the production of organic hay and grazing of sheep. I can see that these agreements are provided in a consistent format, although I note that two of the dates have been overwritten. No explanation for this has been provided.
13. I have no evidence to confirm how either of the barns were actually utilised by Mr Bealing, or what the barns were used for in the gaps where the lease expired each year. Moreover, I have not been provided with evidence about the condition of Barn 5 or its use, prior to 2017 when the roof was completed.
14. I have been provided with copies of various invoices for bales of hay dated between July 2012 and September 2015. Although these all bear the address Oak Barn Farm, they do not provide information that allow me to conclude that the hay purchased was stored in, or collected from, either barns 4 and 5. Moreover, given the acknowledged equestrian use that still exists on the site, the evidence does not demonstrate that the hay was exported from the site and not used to provide forage for the existing horses.
15. Although I acknowledge that the bales, agricultural machinery and equipment stored in these barns at the time of my visit may be agricultural in nature, they are also items commonly found at equestrian establishments, for moving large bales and the general maintenance of the land. They are consequently inconclusive and could either represent an agricultural or mixed agricultural and equestrian use of the site. The photograph provided, shows a number of wrapped haylage or silage bales stored in what appears to be the field to the rear of the barns. However, although this might demonstrate that the field was cut for forage in 2018, it does not assist me in determining the use of the Barns.
16. For the above reasons I find that it has not been demonstrated that either Barn 4 or Barn 5 was in solely agricultural use on 20 March 2013.

Conclusion

17. As I have found that the Appellant has provided insufficient information to establish compliance with the above limitations, I conclude that the appeal should be dismissed.

Hilary Orr

INSPECTOR