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# Appeal Decision

Site visit made on 1 October 2019

**by S Edwards MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 October 2019**

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**Appeal Ref: APP/L1765/W/19/3232139**

**North Barn, Oakwood, Curdridge Lane, Curdridge, Southampton, Hampshire SO32 2BH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 (as amended).
  - The appeal is made by Mr Paul Galloway against the decision of Winchester City Council.
  - The application Ref 19/00692/PNACOU, dated 22 March 2019, was refused by notice dated 22 May 2019.
  - The development proposed is a Change of Use of Agricultural Building to a Dwellinghouse (Class C3), and for Associated Operational Development.
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## Decision

1. The appeal is dismissed.

## Main Issue

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

## Reasons

3. In accordance with paragraph Q.1 of Schedule 2, Part 3, Class Q of the Order, 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 20 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.
4. Located to the North of Oakwood, the appeal site comprises a structure which appears to have been designed for agricultural purposes when originally built, and a shared driveway providing access onto Curdridge Lane. The site is surrounded by a larger area of land associated with Oakwood, which was purchased by the appellant in 2005. The application forms states that on 20 March 2013, the appeal building was in use as a general purpose agricultural store in association with surrounding land.
5. At the time of my visit, a number of vehicles were stored in the appeal building, as well as fuel and materials such as bricks and mesh fencing. That said, my observations can only provide a snapshot of the use of the appeal premises. There is no dispute between the main parties that the appeal building would have been previously used for agricultural purposes, but the Council contend that it has not been demonstrated that, under the appellant's

ownership, the building had been solely in agricultural use as part of an established agricultural unit.

6. The appellant argues that the barn forms part of an established agricultural holding selling grass for hay production, and that the tractor used to cut the grass is being stored within the appeal building. Statements submitted by third parties attest that the building was used to store hay, agricultural machinery, field fencing stock and equipment. Whilst there has to be an element of fact and degree, no detailed information of any agricultural undertaking on the site has however been provided in support of the appeal, nor any accounts or documentation that would substantiate the existence of a trade or business use.
7. It is for the appellant to prove, on the balance of probability, that the building was used solely for an agricultural use as part of an established agricultural unit, on or prior to 20 March 2013. The evidence submitted by the appellant does not have to be corroborated by independent evidence to be accepted, but it has to be sufficiently precise and unambiguous.
8. A short statement has been submitted by the site's previous owner, confirming that the barn was in constant use to store hay and agricultural machinery between 1993 and 2005. The building may have been used for that purpose until 2005, and I accept that it has not been abandoned since. Nevertheless, it remains unclear to what extent the appeal building has been utilised since it was acquired by the appellant and if so, whether it was solely for an agricultural use.
9. In this particular instance, the evidence before me is therefore considered insufficient to demonstrate with any certainty that the site was used solely for an agricultural use as part of an established agricultural unit as defined on the specified dates. It is considered that the appeal scheme would not constitute permitted development in respect of Class Q of the Order. As a result, there is no need to consider whether or not the proposals would require prior approval in respect of the accompanying conditions set out in paragraph Q.2.

### **Other Matters**

10. My attention has been drawn to the presumption in favour of sustainable development contained within the National Planning Policy Framework (the Framework) and the absence of development plan policies within the Council's reason for refusal. However, in the context of prior approval appeals, references should be made to the Framework and/or development plan policies only as far as they are relevant to prior approval matters.

### **Conclusion**

11. For the reasons detailed above, and based upon the evidence before me, I conclude that the proposal is not permitted development under the terms of Schedule 2, Part 3, Class Q of the Order. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the Local Planning Authority to consider in the first instance. The appeal is therefore dismissed.

*S Edwards*

INSPECTOR