
Appeal Decision

Site visit made on 15 October 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 4th November 2019

Appeal Ref: APP/R0660/W/19/3234279

Dairy Farm, Halliwell's Brow, High Legh, Cheshire WA16 0QS

- 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.
 - The appeal is made by High Legh Estate against the decision of Cheshire East Council.
 - The application Ref 19/1761M, dated 08 April 2019, was refused by notice dated 13 June 2019.
 - The development proposed is conversion of existing agricultural building to residential use.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by High Legh Estate against Cheshire East Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are whether the proposal would comply with the definition of permitted development as set out by Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), with specific regard to whether the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013 or 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; and whether the appeal scheme would constitute the change of use of a listed building.

Reasons

4. The GPDO sets out that an 'established agricultural unit' for the purpose of Class Q means agricultural land occupied as a unit for the purposes of agriculture, on or before 20 March 2013 or for 10 years before the date the development begins. 'Agricultural building' means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business, and 'agricultural use' refers to such uses.
5. The appeal relates to a part single part 2 storey former agricultural building constructed in redbrick with a slate tile roof. It is adjacent to Dairy Farm House, which is a Grade II listed building. Evidence submitted with the appeal indicates that the building was in agricultural use as part of an established agricultural

unit until some point around 2004, since which time it has not been used for agriculture but has instead been put to other uses including domestic storage.

6. The ground floor part of the building where the access to the first floor dwelling would be is currently used for the storage of materials, including domestic items and building and plumbing supplies. The first floor part proposed for conversion is predominantly a large room with a double glazed window, a boarded roof with rooflights, a fitted carpet, domestic lighting and storage heaters. Photographic evidence submitted to the appeal indicates that, at the time the Council visited, it was heavily in use for domestic storage purposes with items including furniture and a covered pool or billiard table with an overhead table light and associated paraphernalia. At the time of my visit, the room was similarly heavily in use for the storage of domestic items.
7. I appreciate that the current use of the building does not infer its use on the relevant date for the purposes of the GPDO and that some small scale storage of domestic paraphernalia may not constitute a material change of use. Moreover, I accept that there have been no enforcement investigations or formal notices served regarding any unauthorised changes of use. Nevertheless, the current domestic use of the building does not assist me in establishing whether or not the proposal complies with the requirements of Q.1 (a) of Class Q. Therefore, and notwithstanding its agricultural use prior to 2004, there is an absence of substantive evidence that the building was used solely for an agricultural use on the relevant date.
8. Schedule 2, Part 3, Paragraph W (3) of the GPDO sets out that an application may be refused where in the opinion of the authority (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions as are applicable to the development in question. Therefore, while the appellant considers that the Council has not provided compelling evidence to substantiate a material change in the use of the building, the evidential burden is on the appellant to demonstrate that the proposed development complies with the requirements of Class Q.
9. Given my conclusion above in relation to the agricultural use of the building, there is no need for me to consider compliance with any other part of paragraph Q.1 or any prior approval matters under Q.2 as it would not alter the outcome of the appeal.

Conclusion

10. For the reasons given and based upon the evidence before me, I am not satisfied that the proposal meets the requirements of Class Q. Therefore, the appeal should be dismissed.

Sarah Manchester

INSPECTOR