



Appeal Decision

Site visit made on 10 December 2019

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Appeal Ref: APP/Z2505/W/19/3235914

The Old Smithy, Highgate, Leverton, Boston, Lincolnshire PE22 0AW

- 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 (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Baxter against the decision of Boston Borough Council.
 - The application Ref B/19/0026, dated 23 January 2019, was refused by notice dated 20 March 2019.
 - The development proposed is the change of use of agricultural building to a dwellinghouse (Class C3).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal falls within the provisions for permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) with regards to the use of the building and the proposed curtilage.

Reasons

Permitted Development

3. The appeal building comprises a brick building with corrugated roof, accessed off Highgate and set back within the wider site. Within the same site are other smaller buildings and a dwelling, set within an area of hardstanding. The site is surrounded by open agricultural land.
4. The proposal would involve the conversion of the existing building to provide a three-bedroomed, single storey dwelling. External works would involve new windows and doors, the cladding of the external walls with render and the removal and replacement of the roof cladding.
5. Schedule 2, Part 3, Class Q of the GPDO allows for the 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 (dwellinghouses). In terms of the building's use, Class Q.1 requires that the building was used solely for agricultural use as part

- of an 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.
6. The Council have identified that a planning permission from 1996 for the change of use from auto engineering and agricultural land to haulage depot was implemented and the current use of the wider site does not appear to be for agriculture. At the time of my site visit the appeal building was largely empty and did not appear to be in use for agricultural purposes.
 7. The Appellant has provided a series of emails, which include those from Chartered Surveyors. These state that, effective from 1 August 2008 the buildings and rear yard were agriculturally exempt. The Appellant therefore concludes that for a building to be agriculturally exempt it must have an agricultural use. The email also notes that the building was occupied by the adjoining farmer, however no further details of this have been provided.
 8. I have carefully considered all of the information before me. However, the level of evidence provided is not sufficient to lead me to conclude that the building was in agricultural use in accordance with the provisions of Class Q of the GPDO.
 9. In terms of the proposed curtilage, the original application was accompanied by a plan showing a reasonably large area of land within the red line. The Appellant has acknowledged that this would fail to comply with the provisions of paragraph X of the GPDO and was erroneous. Accordingly, a revised plan (Drawing No A/3291-003 Rev B) has been provided which shows a reduced curtilage drawn close around the building to meet the necessary requirements. The area of land within the red line appears to be no greater than the land area occupied by the building as required by the GPDO. If the scheme met all the other requirements of Class Q, it would be open to me to define an appropriate curtilage. However, as I have found that the proposal would not be permitted development, based on the use of the building, it is not necessary for me to do so.
 10. Having reached the conclusions above, I find that it has not been adequately demonstrated that the building meets the necessary requirements of Class Q of the GPDO and therefore the appeal proposal would not be permitted development.

Conclusion

11. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

R Norman

INSPECTOR