
Appeal Decision

Site visit made on 10 March 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd April 2020

Appeal Ref: APP/J1915/W/19/3243681

The Tractor Store, Elbow Lane Farm, Elbow Lane, Hertford Heath, Herts SG13 7QA

- 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 Ladkarn Holdings Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1437/ARPN, dated 8 July 2019, was refused by notice dated 4 September 2019.
 - The development proposed is the change of use from Agricultural to Class C3 residential to provide 1 larger dwelling house.
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Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for change of use from Agricultural to Class C3 residential to provide 1 larger dwelling house at The Tractor Store, Elbow Lane Farm, Elbow Lane, Hertford Heath, Herts SG13 7QA in accordance with the application Ref 3/19/1437/ARPN made on 8 July 2019 and the details submitted with it.

Main Issue

2. The main issue is whether the proposed change of use constitutes permitted development pursuant to Schedule 2, Part 3, Class Q of the GPDO.

Reasons

3. The appeal site is a building on Elbow Lane Farm, which comprises a mixture of agricultural, residential and equestrian buildings. The building is called the Tractor Store and it is a steel portal framed 'Atcost' style barn, with timber frame and weatherboard exterior and has three entrance bays. There are three separate Land Registry Titles covering the areas around Elbow Lane Farm and the site falls under title number HD413875. It also falls within the agricultural land holding number 18/163/0007. The appellant has stated that the building is used for the storage of tractors and other agricultural machinery, feed and hay storage for cattle and sheep and shelter for lambing, sheering, and worming, some of which I observed on my site visit. The proposed development would convert the existing building into a single dwelling house.
4. The Council has suggested that the building was not in agricultural use on 20 March 2013, and therefore, does not benefit from the change of use

- afforded by the GPDO. The Council has stated that the Tractor Store building was not shown as entirely enclosed on planning applications relating to other matters on the wider farm site between 2003 and 2010. However, if these applications did not specifically relate to the Tractor Store, it would not have been necessary to show this structure within any associated plans.
5. The appellant suggests that the building has been in place since 2005, when a steel portal framed 'Atcost' style structure was erected above the former concrete midden walls. As this had been in place as part of the previous animal testing facility on the site. The appellant has provided a photograph, which shows that a building was in place in 2005.
 6. The land adjacent to the Tractor Store was subject to a lease for the East Herts Equestrian Centre. However, the Tractor Store was not subject to this lease. The appellant has submitted a letter from the former Equestrian Manager who states that the Tractor Store was not used in association with the adjacent equestrian business and has always been used for agricultural purposes.
 7. The appellant has submitted various correspondence from the Council's Revenue and Benefits Team, which indicates that the building has not been included as part of the Business Rates Valuation schedule for the site. Whilst a lack of valuation does not necessarily mean the proposal has been used for agricultural purposes, it would appear that the site has had numerous visits by officers in which the building could have been given a rateable value if this was deemed necessary.
 8. The Council has suggested that the design and layout of the Tractor Store would only offer limited turning space for large vehicles and machinery and that the doors are limited in height. Although the appellant has provided a profit and loss account of farm expenses for 2013 and 2014, the Council suggests there are no direct invoices associated with the building or photographic evidence of the building in use. Nevertheless, despite these factors it does not necessarily mean that the store has not been used for agricultural purposes.
 9. I have considered the evidence provided by the appellant, and on the balance of probabilities, I consider that the building has been in use for agricultural purposes on 20 March 2013 and has been used continuously for agricultural purposes since that time. The proposal therefore complies with the criteria of Class Q.1. and an assessment of the conditions under Class Q.2 also indicates that the Council is satisfied that matters relating to Transport & Highways; Noise impacts; Contamination risks; Flooding risks; design and external appearance, and whether the siting is not impractical are all acceptable.
 10. The proposal otherwise meets all the criteria and conditions of Class Q and Prior Approval should, therefore, be granted for the change of use proposed.

Conditions

11. Section W (13) of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
12. The Council has suggested that there should be a condition requiring the submission of a Bat Survey prior to commencement of the development. However, I have considered the response provided by Hertfordshire Ecology,

which states that the structure is sub-optimal for roosting bats and that the likelihood of bats roosting within this structure is not high enough to warrant a survey. Therefore, I consider that this condition is unnecessary and fails to meet the tests set out in paragraph 55 of the National Planning Policy Framework.

Conclusion

13. For the reasons given above, I conclude that the appeal is allowed.

D Peppitt

INSPECTOR