
Appeal Decision

Site visit made on 9 June 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 30 June 2020

Appeal Ref: APP/F2605/W/20/3246665

The Pavilion, Lodge Farm Estate, Lodge Lane, Gasthorpe, Diss, IP22 2TW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q, Paragraph Q.2(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Paul Rackam Ltd against the decision of Breckland District Council.
 - The application Ref 3PN/2019/0056/UC, dated 15 October 2019, was refused by notice dated 4 December 2019.
 - The development proposed is conversion of building to provide 1-bedroom accommodation as detailed in DRG No 18180 120A and comprise a ground floor GIA of approximately 57sq m.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the use of the pavilion has changed to that of an agricultural building so that it benefits from the permitted development rights conferred by Article 3(1) and Schedule 2, Part 3, Class Q, paragraph (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and if so whether prior approval should be granted for the relevant matters.

Reasons

3. The building is a freestanding structure in a field some way from the public highway. It has the appearance of a small sports pavilion of the type that would sit alongside a sports pitch. To the front there are the remains of a terrace, and this is backed by a double pedestrian door, with light above, and four windows. The roof has a shallow pitch and appears to be covered in felt. It has gutters and rainwater down pipes. It has windows to the rear and sides and is constructed from wooden boarding on a concrete base. It is totally surrounded by an agricultural field which has contained sheep.
4. Internally, on the day of my visit, it retains the character and appearance of a sports pavilion with a bar and toilets. On the walls are the fittings associated with this use, the location for a dart board, coat hooks and an electricity meter. There is still a bar in place, together with a beer tap and a sink. In the toilets the sanitary ware is still in place together with a roller towel. On the floor of the

toilets were crates of empty bottles, with some of the bottles displaying a use by date of 05 2003. The building also had some straw on the floor, animal pens (both assembled and unassembled) and other equipment which appeared to be of an agricultural nature. This equipment occupied a small part of the building's floor area.

5. It is proposed to convert the building into a one-bedroom dwelling utilising the permitted development rights conferred by virtue of Article 3(1) and Schedule 2, Part 3, Class Q, paragraph (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The main area of dispute between the parties is whether or not the building is used or has been used as an agricultural building as part of an established agricultural unit on or before 20 March 2013.
6. The appellant argues that on the cessation of the use of the building and surrounding lands as a pavilion and cricket pitch, in 1998, they were put to agricultural use sometime in the following years. I have no doubt that the land surrounding the appeal building is in agricultural use.
7. The appellant further argues that just because the appeal building has the appearance of a pavilion does not mean that the use hasn't changed to agriculture. He cites examples of former air force buildings which are now in agricultural use, but still have the look of their former use. I have no detailed knowledge of these former air force buildings. However, the appeal building not only looks like a sports pavilion from the outside, it still has the fixtures and fittings associated with such a building on the inside.
8. Furthermore, considering the likely date when the use of the building as a cricket pavilion ceased, the interior of the building and the fittings and fixtures are in remarkably good condition. If the building had been used to accommodate livestock, as is stated by the appellant, I would have expected to see more evidence. For example, there is a distinct lack of wear and tear internally, the curtains are still in place and I did not notice a predominance of mud or animal excrement on the floor or walls, which I would have expected to see if there had been sustained use by livestock. Additionally, the building retains the original entrance doors which are of a domestic scale and would be narrow for a building associated with the sheltering of livestock.
9. The appellant has provided photographs which show, at some point, the pavilion contained hay bales. Whilst I don't doubt the authenticity of the photographs, they are quite literally a snapshot in time and record a specific occasion when hay bales were stored in the building. On the other hand, the photographs also show coat hooks, position of dart board, domestic style loft access, bar and entrance to the women's toilets.
10. The appellant has provided sales particulars for the estate which show the parcel of land upon which the pavilion stands being pasture and licensed to a local farmer under a tenancy agreement. Where the pavilion is referred to it is described as a 'former cricket pavilion' and 'still has internal walls and is connected to mains electricity and water'. As I stated earlier, I have no doubt that the land surrounding the pavilion is in agricultural use and this is demonstrated in the particulars of sale. However, the pavilion still appears to retain its character as a sports pavilion, is described as being serviced by water and electricity and no mention is made of it being used for agriculture itself in the particulars.

11. The appellant has supplied three letters in support of this appeal, from a neighbour of the site, the former chairman of the Riddlesworth Cricket Club and a former worker on the Gasthorpe Estate. I have no reason to doubt the contents of these letters. However, due to the lack of detail they contain, in particular the lack of specific dates when the pavilion was used for agriculture, the lack of differentiation between the pavilion and the surrounding agricultural land and the lack of description about how the space in the pavilion was used for agriculture, I can give them little weight in the determination of this appeal.

Conclusion on the evidence

12. The decision on this appeal turns on whether the use of the pavilion has changed to that of agriculture, so that it benefits from the permitted development rights conferred by Article 3(1) and Schedule 2, Part 3, Class Q, paragraph (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I consider that the building is and has been since the land around it ceased to be used as a cricket pitch, a vacant sports pavilion and not an agricultural building. Therefore, it does not benefit from the permitted development rights set out. The evidence I draw on in reaching this conclusion is: the good condition of the building, both internally and externally; the presence of a large number of fixtures and fittings associated with the sports pavilion use; the small, domestic scale front doors, which do not readily lend themselves to agricultural use and the lack of detail supplied regarding the dates of the alleged agricultural use of the building. Whilst I accept that it might have been used for the storage of materials associated with agricultural use at certain times in this period, I do not consider that it has been solely in agricultural use in that time. Its use remains that of a sports pavilion.
13. In conclusion I find that the appeal should be dismissed as the building was not used solely for an agricultural use as part of an established agricultural unit, as required by Article 3(1) and Schedule 2, Part 3, Class Q, paragraph (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It therefore does not benefit from these permitted development rights.
14. Class Q, for a change of use from an agricultural building to a dwellinghouse to be permitted development, is subject to limitations as to the use of the building on a specific date. This is to ensure that this was the last use of the building and indeed was the last lawful use. This is a question of fact based on the evidence. The evidence I have found, summarised in paragraph 12 above, demonstrates that the last lawful use of the building was as a sports pavilion. With regard to Class Q, a change of use from an agricultural building to a dwellinghouse will only be permitted if the building was actually lawfully used as an agricultural building at the relevant date. This change of use is not permitted development as an agricultural use of the building at the relevant date has been demonstrated.

Conclusion

15. Having regard to all the matters before me I therefore dismiss the appeal.

Peter Mark Sturgess

INSPECTOR