The Planning Inspectorate

Appeal Decision

Site visit made on 27 May 2020

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2020

Appeal Ref: APP/C1625/W/19/3243051
The Barn, Land at Longaston Lane, Slimbridge, Gloucestershire GL2 7AX

- 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 (as amended).
- The appeal is made by Ms Katrina Napthine against the decision of Stroud District Council.
- The application Ref S.19/1501/P3Q, dated 9 July 2019, was refused by notice dated 12 September 2019.
- The development proposed was originally described as: 'change of use of an agricultural building to C3 residential. This application seeks the change of use only under Class Q(a). Building operations required to convert the building will be the subject of a separate application.'

Decision

1. The appeal is dismissed.

Procedural Matters and Main Issue

2. Since the appeal was lodged, the Council have confirmed that the decision on the original application was made outside of the 56 days allowed by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 2015 GPDO). Accordingly, matters in relation to whether the building is capable of functioning as a dwelling are no longer relevant to my assessment of the appeal. This is because, as stipulated by Paragraph W of the 2015 GPDO, if a decision is not made during this time scale, it is deemed to be acceptable.

3. However, Class Q of the 2015 GPDO makes it quite clear that the permitted development rights only apply to sites used solely for agricultural use as part of an established agricultural unit. As a consequence, if this requirement cannot be met, the timing of the decision by the Council would not be relevant because the actual permitted development right would fail to exist.

4. Accordingly, based on the evidence before me, the main issue is whether the proposal represents permitted development by virtue of Part 3, Class Q of the 2015 GPDO, having particular regard to whether the site was used solely for an agricultural use as part of an established agricultural unit in accordance with the requirements of Paragraph Q.1.

Reasons

5. In dismissing a previous appeal on this site[1], the Inspector considered a suite of evidence in relation to the nature of the use. Having analysed this evidence, the conclusion was that it demonstrated a 'recreational level of farming'. As a consequence, the Inspector could not conclude with any certainty that the building was used solely for an agricultural use as part of an established agricultural unit on or before 20 March 2013. Accordingly, it was determined that the proposal did not meet the requirements of Paragraph Q.1(a).

6. For clarity, and as set out in the previous decision, in the absence of any definition in the 2015 GPDO, the meaning of 'agriculture' should be taken from s336(1) of the Town and Country Planning Act 1990. The use is taken to include the breeding and keeping of livestock and the use of land as grazing land. 'Agriculture' may therefore include the use of land for grazing horses, but case law has established that it does not include the breeding and keeping of horses.

7. Paragraph X of Part 3 of the 2015 GPDO states that an 'agricultural building' means a building used for agriculture and which is so used for the purposes of a trade or business, and 'agricultural use' refers to such uses. It also states that 'established agricultural unit' 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.

8. Based on the details before me, this appeal has been supplemented with additional evidence beyond that seen by the previous Inspector. This has been submitted with the intention of proving the agricultural use as required by the 2015 GPDO. The evidence before me includes statutory declarations, receipts, invoices, insurance details, and a tax return. The invoices that have been provided relate to work that has taken place at the site and the statutory declarations generally relate to employment activities derived from the site. It is therefore apparent that agricultural activity does take place.

9. However, a trade or business should also generate income and have receipts for goods and services provided. In this respect, the evidence that is before me is far from compelling. The tax return provided relates to the 2013/14 tax year and states that turnover was over £6000. However, I have very limited evidence to demonstrate how this, or any revenue is derived. Only two sales receipts and one invoice have been provided, and these relate to relatively small sums of money dating from 2007 and 2008. No accounting information has been provided and consequently, the very limited evidence that I do have in relation to this matter does not paint a clear picture of a trade or business. I therefore attach little weight to these receipts in my assessment of the appeal. Consequently, without more compelling evidence, the depth of information before me does not lead me to a different conclusion from that provided by the previous Inspector. This being that the activity at the site is that of recreational farming, rather than a trade or business.

10. Reference has been made to equestrian activities, however, I do not find the evidence provided by the Council compelling on this point. Consequently, I have no reason to dispute that the use of the site is that of agriculture. However, as identified above, I also have no compelling evidence to

[1] APP/C1625/W/17/3173592

satisfactorily conclude that the use of the site is that of a trade or business. Accordingly, despite the timeliness of the decision provided by the Council, I am satisfied that the proposal would fall outside the remit of that allowed by the 2015 Order.

11. Consequently, I conclude that the proposal would not constitute permitted development by virtue of Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Conclusion

12. For the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR