



Appeal Decision

Site visit made on 24 August 2020

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 24 September 2020

Appeal Ref: APP/W1850/W/20/3250405

Barns at Bowley Lane, Bodenham, Herefordshire, HR1 3LF

- 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, Schedule 2, Part 3, Class Q of the Town Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Mr A Brookes against the decision of Herefordshire District Council.
 - The application Ref 200223, dated 24 January 2020, was refused by notice dated 18 March 2020.
 - The development proposed is the conversion of the existing building to provide 1no. (larger) dwelling house.
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Decision

1. The appeal is dismissed.

Main issue

2. The main issue is whether or not the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Town Country Planning (General Permitted Development) Order 2015 (as amended) (the 'GDPO'), and if so whether prior approval is required, and if so whether it should be granted.

Reasons

3. The appeal relates to several small, connected outbuildings that are attached to the neighbouring Hill House. The front of the site shares a yard and access with a connected, perpendicular stable block, to which no alterations are proposed. The site is otherwise surrounded by hedged fields, with post and wire fenced boundaries.
4. The minimal changes to the building have been deemed appropriate, and all other requirements under Class Q have now been met, following a previous refused application¹. It is in dispute whether or not the site was used solely for agricultural use as part of an established agricultural unit on 20 March 2013, or when last in use before this, as required to be eligible for Q.1(a) of the GDPO.
5. The appellant has stated that 'on 20th March 2013 the building was in use as part of the agricultural holding for the storage of hay, agricultural equipment and machinery'. However, no evidence that this was as part of an established agricultural unit run on a commercial basis has been provided, an enterprise from which I would have expected invoices and receipts to have been generated.

¹ 193890/PA4

6. The Valuation Officer was satisfied that the building was used for agricultural purposes on 12 July 1984. However, the accompanying letter does not give a specific address along Bowley Lane, nor does it explain which of the outbuildings it applies to. Given these uncertainties and the nearly 30-year gap to 2013 in which much could have changed, I can only give this limited weight. The holding has a CPH number in order to allow the movement of livestock but, even if details had been provided, this is also of limited use in demonstrating that the barn was solely for agricultural use in 2013.
7. The Council refer to photos from 2009 that show a horse lorry to the side of the building, in addition to electric fences. I have not been provided with a copy of these photos, but regardless, it is not in dispute that there is a stable block at the entrance to the site, which has clearly been there for some years and was highly likely to have been in use in 2013. Given that the larger barn and ancillary outbuildings share a yard with the stables and that the rear of the main barn has a stable door, I consider it likely that the outbuildings subject to the appeal were used, in part, for equine purposes at the time. This is not to say that the buildings weren't also used for agriculture, but in the absence of any other evidence and on the balance of probability they were probably not used solely for this purpose.
8. I note the argument, backed up by other appeal decisions brought to my attention, that if no change of use has been applied for then it must be assumed to still be agricultural. I give weight to the principle of this argument. However, in these other cases there was clear evidence of a solely agricultural use at a reasonably recent juncture, which is not the case here.
9. The red outline on the location plan includes the stable block, which does not form part of the application. The red line also encompasses parking and access to the front, and a garden to the rear. Further justification for these proposals would be required in light of the restrictions to curtilage under Class Q. However, as I am dismissing the appeal, I have not considered this further.
10. Evidence has not been provided that the site was part of an established agricultural unit and on the balance of probability, the buildings were not solely for agricultural use on 20 March 2013. Based on this, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, it is development for which an application for planning permission would be required.

Prior approval

11. Given the conclusion that the proposed change of use would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required as it would not alter the outcome of the appeal.

Conclusions

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

B Davies

INSPECTOR