



Appeal Decision

Site visit made on 25 August 2020

by S Shapland BSc (Hons) MSc CMILT MCIHT

an Inspector appointed by the Secretary of State

Decision date: 1 October 2020

Appeal Ref: APP/P1805/W/20/3254556

Dagnell End Farm, Dagnell End Road, Redditch B98 9BE

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Chris Taylor against the decision of Bromsgrove District Council.
 - The application Ref 19/01435/CUPRIO, dated 30 October 2019, was refused by notice dated 23 December 2019.
 - The development proposed is change of use of agricultural building to create 1 dwelling (use class C3) associated curtilage land and including reasonably necessary building operations.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The application for prior approval was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) and would involve the change of use of the agricultural building to a single dwelling. Class Q(a) permits development comprising of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Class Q(b) permits development referred to in paragraph (a) together with any building operations reasonably necessary to convert the building.
3. Paragraph Q.1(a) of the GPDO states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit (i) on 20 March 2013, or (ii) 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.
4. The main issue in this appeal is therefore whether the development would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

5. The appeal site is known as Dagnell End Farm and comprises two buildings, a residential dwelling and barn which is the subject of this appeal. The site is located to the north of Dagnell End Road with the existing residential dwelling being adjacent to the road. The barn is located further to the north within a field, and would share the existing access to Dagnell End Farm. There are a

number of other residential buildings in close proximity to the appeal site, which includes a converted barn known as Rose Barn and a brick wagon store known as The Granary.

6. The barn is a large Dutch barn, approximately 6 metres in height finished in corrugated metal. It is not disputed between the parties that the appeal site has historically been used for agriculture. I have had regard to the affidavit of Mrs Sheila Dickinson, who owned the barn from 1972 until 2006. Up until this point the barn formed part of Laurels Farm, and the land surrounding the barn was predominately used for grazing. The barn was used for the storage of hay and straw for the livestock and agricultural equipment. This is supported by photographic evidence which clearly shows the barn having an agricultural use. In 2006 the barn was sold to the Langs., who at the time were the owners of Dagnell End Farm. I am satisfied that in 2006 prior to the barn being sold it was solely being used for an agricultural use.
7. The GPDO is clear that in order to meet the requirements of permitted development, the building must be used solely for agricultural on 20 March 2013. If on that date the building is not in use, then the last use before that date must solely be agricultural. The appellant states that since the agricultural use ceased in 2006 the barn has been largely vacant and only used for the small scale storage which they consider to be de minimis.
8. Notwithstanding this, I have been provided with a statutory declaration from Alison Johnson, who lived at the Granary for a period between June 2009 and February 2019. This states that during this period the owners of the barn provided her with access to the barn for the storage of associated domestic items. This included the parking of cars, housing of gym equipment and the storage of books and furniture. This statutory declaration carries substantial weight due to its legal standing and the penalties available against those making false declarations.
9. Furthermore, I have been provided with an email from the Langs who previously owned the barn. This states that during their ownership the barn was only ever used for storage. This email is heavily redacted which limits the weight I can attribute it, however it does appear to be consistent with the declaration made from Alison Johnson. Whilst the appellant has questioned the motive of these statements, I have no evidence to suggest either party has a vested interest in the barn given they no longer live near the appeal site. The evidence provided is compelling, and in my view, indicates that the barn has been in use since 2006 contrary to the appellants assertion, and that this use has not solely been an agricultural one.
10. The appellant has submitted a number of statements which appear to conflict with the above evidence. Affidavits have been provided by Mr William A. Dutton and Mr Robert Caldecott who are current neighbouring land owners. In addition, I have taken into account the affidavit from Mrs Sheila Dickinson who remained at Laurel Farm until 2014. Their statements indicate that from their respective locations they have clear views of the barn. In their view the barn has remained dormant for long periods, and based on their observations has only ever had an agricultural use.
11. I appreciate that in a rural area adjacent landowners may be aware of the comings and goings at the barn. However, without evidence of direct access to the barn I cannot be certain that these adjacent landowners can confirm

exactly what use was taking place within the barn after 2006. This limits the weight I can give these specific affidavits.

12. An affidavit has been provided by Mr Peter Arnold who worked as a regular gardener for over 15 years from 2005 at Dagnell End Farm. He had regular access to the barn, and states that minor items were stored within the barn during this time. There is no mention of the parking of vehicles, storage of gym equipment or any additional storage within the barn. Given Mr Arnold's role as regular gardener, I am satisfied that he would have had access to the barn and thus give this affidavit weight in my consideration of the appeal.
13. The current occupier of Rose Barn has provided a statutory declaration in which he outlines the use of the barn in the time he has lived there. However, he has lived at Rose Barn since January 2014, which is past the relevant date within the GPDO. This therefore carries no weight in my determination of the appeal.
14. I have carefully considered the conflicting statements from all parties. The appellant's assertion is that lawful use of the barn is agricultural and that there has not been a formal change of use since its agricultural use ceased in 2006. I acknowledge this, however, the parking of a car, gym equipment and other domestic items within the barn are in my view, not uses that could be regarded as ordinarily and reasonably incidental to an agricultural use.
15. The requirements of paragraph Q.1(a) of the GPDO are clear that the building in question would only benefit from permitted development rights if its sole use has been for agricultural. Based on the evidence before me, there is considerable doubt that this has been the case. It has not been demonstrated that since 2006 the sole use has been agricultural, and therefore that the requirements of the GPDO have been met.
16. The appellant has cited a number of appeal decisions¹ in which the inspectors accepted that the presence of other non - agricultural items within agricultural barns did not necessarily mean that they did not benefit from permitted development rights. However, I have not been provided with the full details of these cases. Clearly when determining whether an individual site complies with the requirements of the GPDO is site specific and dependent on the evidence which was presented at the time of those appeals.
17. The appeal site has previously been refused prior approval with applications in 2014² and 2015³. These refusals were on technical matters and the appellant contends that at the time the Council did not raise any concerns that the barn did not comply with the requirements of paragraph Q.1(a) of the GPDO. I have not been provided with the evidence which led to the Council reaching that conclusion at that time. In any event, all appeals and applications must be determined on their own merits which is what I have done in this instance.
18. Consequently, based on the evidence provided it has not been adequately demonstrated that the barn was last used solely for an agricultural use, as required by the terms of Class Q of the GPDO. I therefore concluded that the proposed change of use of the barn does not constitute permitted development under the terms of the GPDO.

¹ APP/C3105/W/15/3033700, APP/P1133/A/14/2228580, APP/P3040/A/14/2226798, APP/V2635/W/18/3209994, APP/X1545/W/18/3198348

² Application reference 14/0650 refused 22 October 2014

³ Application reference 15/0581 refused 21 August 2015.

Other Matters

19. Given my 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.

Conclusion

20. For the reasons given above, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO.

S Shapland

INSPECTOR