
Appeal Decision

Site visit made on 16 September 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th October 2020

Appeal Ref: APP/X1355/W/20/3252326

Agricultural Building, Off Housing Lane, East of Handley Cross, Medomsley, Consett DH8 6TZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Mr A Willey against the decision of Durham County Council.
 - The application Ref DM/20/00013/PNC, dated 2 January 2020, was refused by notice dated 13 February 2020.
 - The development proposed is the conversion of an agricultural building into a large dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are:
 - Whether the agricultural building was in sole agricultural use on 20 March 2013;
 - Whether the proposed floorspace exceeds the maximum limit of 465 square metres; and
 - Whether the associated building works are beyond what is reasonably necessary for the building to function as a dwelling house.

Reasons

Sole Agricultural Use

3. Under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 the change of use of an agricultural building to a dwelling is not permitted if the site was not used solely for an agricultural use as part of an established agricultural unit on or before the 20 March 2013. A building brought into agricultural operation after that date can qualify for permitted development but only after 10 years of use.
4. A completed application to the UK Government's Rural Payments Agency shows that the Appellant sought payment under the scheme in connection with Field 7657 (Sheet ID NZ1254) as shown on the Rural Land Register (RLR) Map SBI 106498040 at or before mid-May 2019. The map confirms that Field 7657 corresponds to the field in which the agricultural building subject to this appeal

sits. However, the documents do not show that payment was received and, in any event, are irrelevant as concerns the use of the land on and before 20 March 2013.

5. The Appellant has failed to provide any business accounts confirming that a farm enterprise was in operation on or before 20 March 2013. Whilst these would not in themselves confirm that the agricultural building was in commercial use, they would strongly help to substantiate that submission. Furthermore, they would possibly render moot any lack of information from DEFRA about the Appellant's history of single payments.
6. For the reasons given above the Appellant has not demonstrated that the agricultural building was in sole agricultural use on or before 20 March 2013.

Proposed Floorspace

7. Following amendment through the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 the change of use of an agricultural building to a dwelling is not permitted under Part 3, Class Q if the new dwelling house would have more than 465 square metres of floor space.
8. The current agricultural building has an internal floor measurement of approximately 12 metres by 25 metres or around 300 square metres. The development proposal shown on the approved plans ('Conversion of agricultural building into a dwelling on land east of Handley Cross, Medomsley') shows two floors. According to the Council, the total floor space would be of the order of 520 square metres.
9. The Government has clarified in Paragraph 105 of its Planning Practice Guidance (15 June 2018) that the upper floor counts as part of the total permitted floorspace. Although this is only guidance, because of its recent publication date I give it considerable weight. Accordingly, the proposed floor space would comfortably exceed what is permitted under Part 3, Class Q.

Associated Building Works

10. Change of use from an agricultural building to a dwelling is not permitted if the development would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls reasonably necessary for the building to function as a dwelling.
11. The building appears to have good structural integrity with no obvious signs of dilapidation. The submitted plans indicate that the Yorkshire Boarding on the side and end elevations would be retained as would the concrete base. Lightweight sheeting would cover the existing roof structure.
12. Consequently, the plans indicate that the proposed development would be able to function as a dwelling without the need for excessive levels of external alteration, thus allowing it to retain its outward appearance as a former agricultural building.

Conclusion

13. The proposed development would satisfy the requirement that the changes and alterations to the former agricultural building should not exceed what is reasonable for it to function as a dwelling. However, it would fail to satisfy the requirement concerning evidence of sole agricultural use pre-20 March 2013 and that concerning the floorspace threshold. Consequently, it should not be granted prior approval for change of use from an agricultural building to a dwelling house under Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
14. The appeal is therefore dismissed.

William Walton

INSPECTOR