



Appeal Decision

Site visit made on 29 September 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2020

Appeal Ref: APP/V1505/W/20/3254343

Barn, Lady Spring Wood, Dunton Road, Little Burstead, Billericay CM12 9TZ

- 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.
 - The appeal is made by Mr B Stone against the decision of Basildon District Council.
 - The application Ref 19/01513/PACU, dated 31 October 2019, was refused by notice dated 20 December 2019.
 - The development proposed is change of use of agricultural building to 3no. dwellinghouses (Class C3) & associated operational development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description of development given within the appeal form and decision notice as it most accurately describes the proposed development.

Main Issue

3. The main issue is whether the site was solely used for an agricultural use, as part of an established agricultural unit, within the applicable timescale under Class Q.1.(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

Reasons

4. Schedule 2, Part 3, paragraph Q.1(a) of the GPDO rules that development carried out under Class Q is not permitted where the site was not used solely for an agricultural use as part of an established agricultural unit on (i) 20th 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. Paragraph X of Schedule 2, Part 3 of the GPDO defines agricultural use as a use for the purposes of a trade or business.
5. It is for the appellant to demonstrate that the agricultural use of the site conforms with the above criteria. Since there is no definition in the GPDO, I have taken the meaning of 'agriculture' from s336(1) of the Town and Country Planning Act 1990 (the Act), which sets out examples of agricultural activities.
6. The list set out under s336(1) of the Act is not exhaustive but includes: 'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock...the use of land as grazing land, meadow land, osier land,

market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the use of land for agricultural purposes, and 'agricultural' shall be construed accordingly'.

7. The appellant states that Lady Spring Wood is an agricultural unit, which is part of his larger holding extending to approximately 180ha, which was granted an agricultural holding certificate in 1981. In 2008, the appellant confirmed the holding covered the site for forestry, and other sites which consisted of a Turf Farm, grazing, arable land and areas of set aside farming land.
8. The appellant states that in 2008 the building was erected to store equipment in connection with a tree nursery on the site and the coppicing of the woods. He also says that the building is now used and was in use on the relevant date, for the secure storage and repair/maintenance of agricultural plant and machinery required at both Lady Spring Wood and the remaining agricultural land owned by the appellant.
9. I note the appellant's comments that the site has had a long history of being in agricultural use. However, for the permitted development rights to apply, the barn must also have been used for agricultural purposes. Evidence from a previous appeal decision¹, for a proposal to erect an agricultural building on the site, is that in 2007 the Inspector concluded that whilst the appellant was looking to establish a market for the trees, there was no detailed business plan and that the use of the site at the time did not amount to a forestry enterprise.
10. Furthermore, I have not been provided with any details of the tree nursery business being established since then and, although the appellant contends that the building was used in connection with operations on other land, there is insufficient evidence linking such activities to the appeal site. The appellant states that most of the smaller nursery trees have now been removed and the areas grassed over, but does not give details of when this took place. Therefore, I am unable to conclude whether the activity of growing Christmas trees took place on the site at the relevant date. As such, there is a lack of evidence before me that conclusively locates an agricultural business at the appeal site on 20th March 2013.
11. It is for the appellant to prove on the balance of probability that the building was used solely for an agricultural use as part of an established agricultural unit in compliance with Paragraph Q.1(a). In this case, there is insufficient evidence that the building has been used in connection with agriculture.

Other matters

12. There is a dispute between the parties as to the lawfulness of the agricultural building, subject of this appeal. However, that is not the proposal before me and there are other mechanisms available to the appellant to establish the lawfulness of the building. The Council hasn't provided substantive evidence that it is not lawful, however my consideration does not turn on this matter as I have already found against the building being used solely for an agricultural use as part of an established agricultural unit on the relevant date.

¹ APP/V1505/A/06/2031214

Conclusion

13. Given my conclusion that the proposal would not be permitted under Schedule 2, Part 3, Class Q.1(a) of the GPDO, there is no need for me to consider the proposal against the conditions set out in Class Q.2(1) and I dismiss the appeal.

G. Pannell

INSPECTOR