



Appeal Decision

Site Visit made on 31 March 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2021

Appeal Ref: APP/P1133/W/20/3262045

Rushymeade, adj. Greenacres, Higher Ringmore Road, Shaldon TQ14 0HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a Article 3(1) and Schedule 2, Part 3, Class Q, Paragraph Q.2.(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr & Mrs S & L Martin against the decision of Teignbridge District Council.
 - The application Ref 20/01473/NPA, dated 19 August 2020, was refused by notice dated 16 October 2020.
 - The development proposed is the change of use of agricultural building to a dwellinghouse and for building operations reasonably necessary for the conversion.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs S & L Martin against Teignbridge District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposal is permitted development, with particular regard to the use of the building on 20 March 2013 ("the relevant date"), and the extent of the works required to facilitate the change of use.

Reasons

4. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the Order"), Schedule 2, Part 3, Class Q, Q.1.(a) sets out 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 on the relevant date. The appellants purchased the land in 2012 when their appeal statement indicates it was used as an extension of their adjoining land for the grazing of horses, the building being ancillary to that use. At some time in 2013, the evidence describes how they brought alpaca and chickens to the land and used the building accordingly.
5. However, whilst this may indicate an agricultural use for the site, Schedule 2, Part 3, Paragraph X of the Order confirms that for the purposes of Part 3, 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. Therefore, to benefit from the relevant permitted development rights it is

insufficient for the building to have simply been in agricultural use, evidence of a trade or business at the relevant date is also required.

6. There is evidence that in August 2013 the appellants made a payment to the British Alpaca Society. However, there is no indication as to what this payment was for or how it demonstrates that a trade or business was being carried on at the site. Evidence of a visit from the vet in 2015 may be suggestive of trade or business activities but is also not conclusive. In any case, both of these events are after the relevant date and so do not assist in demonstrating the use at that time.
7. Therefore, regardless of the relevance of any assumptions that may have been made by a previous planning officer in connection with an earlier application, I have no conclusive evidence that the site was being used for an agricultural use for the purposes of a trade or business on 20 March 2013. I conclude that the development is not permitted development on that basis.
8. The Council also allege in their reason for refusal that the works may result in building operations that go beyond those permitted under the Order. However, this is after having concluded in the officer's report that the proposed works are considered reasonably necessary and constitute the allowable works set out in the Order. With regard to this and, in the absence of any detailed concern, this reason for refusal is unsubstantiated by evidence. However, it does not alter my earlier conclusion in respect of the use on the relevant date.
9. The Council's officer report also refers to, then emerging, legislation regarding the size of dwellings permitted under the Order. However, in light of my conclusions on the main issue, I have not considered this matter any further.

Conclusion

10. For the reasons given, I conclude that the appeal should be dismissed.

M Bale

INSPECTOR