
Appeal Decision

Site visit made on 25 May 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Appeal Ref: APP/H1840/W/21/3269394

Barn off Acton Lane, Ombersley DY13 9TE

- 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 (as amended).
 - The appeal is made by Mr Reuben Lee against the decision of Wychavon District Council.
 - The application Ref 20/02701/GPDQ, dated 1 December 2020, was refused by notice dated 26 January 2021.
 - The development proposed is notification for prior approval for the proposed change of use of an agricultural building to a dwellinghouse and for building operations reasonably necessary for the conversion.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether:
 - (a) the barn was in agricultural use as part of an established agricultural unit on 20 March 2013 and whether this was its last beneficial use; and
 - (b) whether the building operations reasonably necessary to convert the building would amount to rebuilding.

Reasons

Use

3. The site is located off Acton Lane, around 2 miles from the village of Ombersley. Within vicinity of the site, Acton Lane comprises mostly linear development consisting of established residential dwellings including barn conversions and garages. There are fields and paddocks to the rear and opposite the appeal site as well as further down the lane, some of which were occupied by horses during my site visit.
4. The design and access statement sets out a chronological timeline from 2012 with specific dates of the various tenancies for parts of the site, in conjunction with several sworn statements from those stakeholders concerned, which support the appellant's case in this respect and suggests that the barn was used for agricultural purposes between 2012 and 2014, falling vacant since then.

5. This would appear to be a more robust approach in comparison to past applications¹ and this additional evidence needs to be appropriately considered. It would appear that the appellant has provided a reasonable degree of information, which the Council will need to disprove on the balance of probabilities in order to sustain any objection to it.
6. In this context, there are a number of competing factors that bring the appellant's case into doubt. For example, the barn is repeatedly referred to as an existing stable within the planning history of the wider site, wherein the internal format of the building looks very similar to stalls comprised in a stable block, which in turn would appear consistent with the nature of surrounding land uses that includes the keeping of horses, among other things.
7. Without sufficient direct explanation as to why these correlating characteristics are present and consistent with an agricultural use, there remains significant doubt about the barn's purported use and possible equestrian use.
8. Aside from the sworn statements, there does not appear to be tangible evidence demonstrating that the site has not been in an alternative equestrian use at some point in its recent past. For example, it is said that the internal layout of the barn is used for sheep and feed storage, but there is no evidence by way of business documentation such as receipts or similar demonstrating such a use was in operation at the site.
9. Furthermore, there is no evidence that the internal layout is not suitable for the keeping of horses and that it is unlikely to have been used for equine purposes as such. Notwithstanding, even if the barn was used for agricultural purposes between 2012 and 2014, it is not wholly clear that it has remained vacant since then, especially given the nature of surrounding land uses.
10. On the balance of probabilities, the cumulative weight of the Council's evidence and several characteristics that correlate with a possible equine use, in the absence of competing tangible evidence from the appellant of a similar kind, generates a significant level of uncertainty in my mind. This means that I cannot conclude with a sufficient degree of certainty that the barn was in agricultural use as part of an established agricultural unit on 20 March 2013 and that this was its last beneficial use.
11. Overall, therefore, the proposal would conflict with Paragraph Q.1 (a)(i) under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Building Operations

12. The barn comprises a steel frame with pitched timber roof, constructed with a concrete block plinth and black timber boarding up to its eaves. The eastern and western elevation incorporate large sliding doors and the roof incorporates small roof lights.
13. It is stated within the design and access statement accompanying the original application that the existing structure would be retained, and that structural engineers have confirmed that the frame and walls are in a good condition and structurally sound, entirely suitable for conversion to a dwelling.

¹ 18/00308/FUL

14. Be this as it may, these statements are anecdotal in this case as there is no technical evidence by way of structural report or otherwise that can be properly interrogated to establish an informed view on the component parts of the existing and proposed structure.
15. Consequently, it is self-evident that the appellant has not provided sufficient information pursuant to Part 3, Paragraph W (3)(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Other Matters

16. Although I sincerely acknowledge and empathise with caring responsibilities and the personal circumstances that may exist in this context, there is no evidence before me that these considerations should form part of the assessment under the relevant provisions of the regulations.

Conclusion

17. For the reasons given, the proposal does not satisfy the requirements of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and the appeal is therefore dismissed.

Liam Page

INSPECTOR