
Appeal Decision

Site visit made on 19 May 2021

by B.S.Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Appeal Ref: APP/G2713/C/21/3267166

Land and building known as East Field Barn, Deighton Lane, Deighton, North Yorkshire, DL6 2SN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Liam Snowdon against an enforcement notice issued by Hambleton District Council.
 - The enforcement notice was issued on 4 December 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land and building to residential use.
 - The requirement of the notice is to cease using the land and building for residential use.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (b)

2. The appellant's statement correctly identifies the basis of a ground (b) appeal as being that the breach of control alleged in the enforcement notice has not occurred as a matter of fact. However, his submissions do not address this point at all but seek to show that the development was shown on the Council's portal as having the requisite approval, a matter to be considered under ground (c) below.
3. From the evidence of my site visit, the building and land in question have clearly been put to residential use and the appeal on ground (b) fails.

The appeal on ground (c)

4. There is a considerable planning history to this site. In May 2016, the appellant submitted an application for prior approval under Schedule 2, Part 3, Class Q of the Town and Country (General Permitted Development)(England) Order 2015 [GPDO] for the change of use of agricultural building to a dwellinghouse. This application (ref: 16/01099/MBN) was refused by the Council and a subsequent appeal (ref: APP/G2713/W/16/3158990) was dismissed in December 2016.

5. In April 2017, the appellant made a similar application for prior approval under the GPDO. This application (ref: 17/00959/MBN) was refused by the Council and a subsequent appeal was dismissed in October 2018 (ref: APP/G2713/W/17/3192034), following a hearing.
6. The appellant states that, on 20 June 2017, when he was reviewing the public portal, he "first became aware of the permission on East Field Barn pursuant to 14/01530/MBN". However, I see that he went on to raise this matter at the hearing referred to above and the Inspector's decision letter notes at para.13 that "The appellant considers that the appeal building already benefits from consent¹ under Class Q of the GPDO, and it is contended that the Council changed the details of this permission on its website. However, the Council dispute this and I note that the site address for the consent relates to Manor Home Farm."
7. The appellant also appears to have raised this with the Council. He has submitted a screenshot of the Public Access overview map, which is a general plan on the Council's web site showing all planning permissions plotted. The screenshot shows the reference "14/01530/MBN" in the line header and a red line around the appeal site and its access from Deighton Lane. However, the Council has demonstrated that it is possible to show a variety of different permissions in the locality when the above reference number remains visible in the line header. The Council appears to have clarified this point to the appellant by email on 30 June 2017 and in a letter in response to a complaint on 20 July 2017.
8. Even on the most generous interpretation of the appellant's case, his belief that reference to 14/01530/MBN applied to East Field Barn should have done no more than to point him to examine the relevant documentation comprised in that decision.
9. Looking in more detail at decision ref:14/01530/MBN, this indicates that the "proposed change of use of agricultural building to a dwellinghouse (Use Class C3) and for associated operational development" was permitted development. However, as noted above, the address on the decision notice is "Manor Home Farm, Waver Lane, Deighton". This is in an entirely different location from the appeal site, part of a farm complex located a considerable distance to the south and with access from a different road, Waver Lane. Moreover, the approved drawing of the building shows it to bear little resemblance to the appeal property; it has a lean-to element not present on the appeal building. Even from the most cursory inspection of the documentation forming part of 14/01530/MBN, I fail to see how it could in any way be misinterpreted as applying to the appeal property.
10. The appellant purchased the property in March 2016, prior to which it would have been normal practice to submit a Local Land Charge Search, plus enquiries of the Local Planning Authority, had he wished to ascertain the planning status of the land and building. Irrespective of whether the portal itself was misleading or inaccurate when he viewed it in June 2017, I can't see that the appellant could justifiably then feel entitled to go on to carry out a development without reference to the formal documentation and associated plans accompanying 14/01530/MBN. This is particularly so when the appellant himself had already been through the process of submitting two prior

¹ Under Council application ref 14/01530/MBN, submitted 22 July 2014, decision date 2 October 2014

notification applications; he was not lacking in experience of planning procedures and had been given clear guidance in 2018 by the previous Inspector on this very issue.

11. The fact that the appellant obtained Building Regulations consent, was given a post code and went on to pay Council Tax are not matters which are determinative of the question of whether there was a valid prior approval for the development in question.
12. The appellant has also raised a number of matters relating to the ownership of the land which do not appeal to me to be determinative of the planning status of the appeal property.
13. I conclude that the development carried out by the appellant was a breach of planning control and the appeal on ground (c) fails.

Other Matters

14. Although there has been no appeal on ground (d), the Council has addressed the question as to whether the works were substantially complete more than 4 years prior to the issue of the notice on 4 December 2020.
15. I note that the previous Inspector records in para.7 of his decision letter that, at the date of his site visit on 14 August 2018, the building was in agricultural use. The Council notes that the appellant made a building regulations application on 16 November 2018 and notified the Council that works would begin on site on 14 December 2018 to convert the building into a dwelling. Therefore, it is clear that the development could not have been substantially complete by the relevant date of 4 December 2016. Had an appeal been made on ground (d), it would have failed.
16. There has been no appeal on ground (a) and I have no deemed planning application before me to consider. Accordingly, I am unable to have regard to any planning merits of the case or to attach significant weight to the character references submitted on behalf of the appellant.
17. The appeal fails on grounds (b) and (c) and I shall uphold the enforcement notice.

B.S. Rogers

Inspector