



Appeal Decision

Site Visit made on 13 July 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2021

Appeal Ref: APP/P1045/W/21/3271492

Hay Barn, Upper Lane, Hulland Ward, Derbyshire DE6 3FH

- 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 P McCabe against the decision of Derbyshire Dales District Council.
 - The application Ref 21/00189/PDA, dated 18 January 2021, was refused by notice dated 12 March 2021.
 - The development proposed is change of use from an existing Agricultural barn. Building works include all necessary internal works to construct a home, externally the only building works are to add windows and doors.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the site address from the Council's decision notice, as this appears to be correct and for the reasons of clarity. The appellants application form, appeal form at Section D and evidence refer to variations of the "*The Barn, Hay Barn and The Hay Barn*".
3. A revised version of the National Planning Policy Framework 2021 (the Framework) has been published since the appeal was lodged. I am satisfied that the revisions to the Framework do not prejudice the positions of the parties in respect of the issues raised in this appeal, insofar as it is relevant to the development and prior approval matters, so it has not been necessary to seek further comments on this change.

Background and Main Issue

4. Class Q (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (the GPDO) permits the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Class Q (b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above.
5. The appeal site is located within the open countryside and comprises of a agricultural building constructed of concrete block work, vertical hung Yorkshire boarding and profiled metal roofing. The proposal is for the conversion of the

building to residential accommodation. A planning application was granted at the appeal site on 30 January 2020 (19/01286/FUL) for the '*reinstatement of cladding to hay barn, re-routing of farm track and temporary earth bund for duration of the restoration works (part retrospective)*'.

6. In this case, the Council contend that the building was only brought into agricultural use following the completion of the proposed development through the granting of planning permission, as stated above. Particularly, as the original building was taken back to its skeletal frame and the development involved the construction of a new building on the site. They do not consider it would comply with the criterion of Class Q.1(a) (iii), as the building, which was brought into use after 20 March 2013, has not been in use for a period of at least 10 years before the date development under Class Q begins.
7. Therefore, the main issue is whether the proposed change of use constitutes permitted development pursuant to Class Q.1(a) of the GPDO.

Reasons

8. The limitations set out in Class Q.1(a) of the GPDO do not permit development if the site was not used solely for an agricultural use as part of an established agricultural unit (i) on 20 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, or (iii) in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins.
9. For the purposes of Class Q, the GPDO at X sets out that an 'established agricultural unit' means 'agricultural land' occupied as a unit for the purposes of agriculture, (b) on or before 20 March 2013 or for 10 years before the date the development begins. 'Agricultural building' means a building (excluding dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business, and 'agricultural use' refers to such uses. As such, whether or not a building is a candidate for development under Class Q is not an issue that turns simply on whether or not it maintains a lawful agricultural land use.
10. From the evidence before me, the appeal site appears to have an historical agricultural use, of which the Council acknowledged in the delegated report, dated 30/01/2020 from the previous grant of permission. Notwithstanding this, I have not been provided with any substantive evidence, including the farming enterprise, holding number and the extent of land holding to substantiate this. However, it does appear that the Council were satisfied at that time, with the notation of the site use, despite the building not located on the applicants established farmstead. It was considered as an existing building which had been in use for a number of years, by granting consent for the development and proposed works for a building it would be used for purposes associated with agriculture, specifically the housing of cattle or the storage of implements.
11. Nonetheless, in terms of agricultural use at the site on the 'Relevant Dates', as set out in the GPDO, the evidence before me is limited and less than supportive. Since the grant of planning permission, the development was carried out and the Council now argue that there is limited evidence of any continued agricultural use at the site, particularly as a new building for agriculture was in essence constructed from the granted permission in 2020.

12. Photographic evidence from the Council has been provided, date stamped from 2019. This shows the extent of what remained of the dilapidated building and from this, it is clearly visible there was very little remaining from any former historic agricultural use. I would therefore disagree with the appellant's contention that the barn has not been '*rebuilt*' and has merely been upgraded and repaired to form a more secure location for both machinery and crops. Furthermore, it would appear from the evidence before me that any previous agricultural use of the building would of likely ceased due to the dilapidated nature and whilst the development was being carried out, as what has been constructed appears as a new building. Moreover, from site observations there was no agricultural activity taking place within the building or wider appeal site.
13. The GPDO, paragraph W¹ (10)(a), requires that when determining applications, the local planning authority must take into account any representations made to them as a result of any consultation undertaken. Third party representations have been provided as part of this appeal. This includes Biggin Parish Council, which advises that works performed on this site have resulted in rebuilding. A new building has therefore been created and has not been used for 10yrs. Several local residents have also expressed concerns that there has been substantial amount of work undertaken over the past few years, and that the previous building has been derelict for years with no livestock and no evidence of agricultural activity or hay storage for numerous years.
14. Furthermore, at Paragraph W² 3 (a),(b) of the GPDO, it states that any application may be refused where the developer has provided insufficient information to enable the decision maker to establish whether the proposed development complies with any conditions, limitations or restrictions as may be applicable to the development in question. As such, even if I were to consider the appellant's contention that the barn has been used for over 50 years and had fallen into disrepair and became unsafe. I have no substantive evidence to support this. Including, the exact nature of repairs / structural works carried out or that it would meet the 'Relevant Dates' criterion set out in the GPDO. The photographs from 2009 are not date stamped, and what is shown of the building at that time does not appear to represent what has been constructed since 2019 and is now built on the site.
15. On the basis of the evidence before me, insufficient evidence has been provided to demonstrate that on the balance of probability the building was solely in agricultural use as part of an established agricultural unit, Class Q.1(a) (iii) in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins.
16. I cannot be satisfied that the proposal is permitted development and as such I must find it is not. Therefore, the proposal would not comply with the express terms of permitted development set out in Schedule 2, Part 3, Class Q of the GPDO, particularly paragraphs Q.1.(a).

Other Matters

17. Given my conclusion above, there is no need for me to consider the further prior approval matters of transport and highways, noise, contamination, flood risk, impractical or undesirable location and the design or external appearance,

¹ W.- Procedure for applications for prior approval under Part 3, Paragraph 10 (a)

² W.- Procedure for applications for prior approval under Part 3, Paragraph 3 (a), (b)

and the provision of adequate natural light in all habitable rooms as it would not alter the outcome of the appeal.

Conclusion

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

K A Taylor

INSPECTOR