



Appeal Decision

Site Visit made on 27 July 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2021

Appeal Ref: APP/P1133/W/21/3273556

Land at Abbotskerswell Cross, Totnes Road, Abbotskerswell TQ12 5NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class Q.
- The appeal is made by Mr Russell Downs against the decision of Teignbridge District Council.
- The application Ref 20/02363/NPA, dated 7 December 2020, was refused by notice dated 11 February 2021.
- The development proposed is the change of use of agricultural building to a dwelling.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal is permitted development, with regard to whether on 20 March 2013 (the relevant date) the building was used for an agricultural use as part of an established agricultural unit.

Reasons

3. The appellant has owned the land for some time with a view to establishing an agricultural enterprise at the site. The building was erected and appears to have been used for agricultural purposes. However, to benefit from the permitted development right, the agricultural use must have been for the purposes of a trade or business.
4. I am told that the appellant has undertaken considerable research, learning, and training to support the establishment of a vineyard and orchard at the site. Infrastructure was put in and the orchard was planted in around 2008. Vines were planted in around 2009. Accounts have been kept since 2007, there has been smallholder insurance, and a limited company was formed in 2009. This all indicates intent to establish a business at the site.
5. While there may be no need for a profit in order to trigger permitted development rights, there has now been a period in excess of 10 years from the planting of the orchard and vines without evidence that any tradable produce has been made or even any crop harvested. I appreciate that businesses such as this will take time to establish, the appellant has spent money on maintenance, and that the vines could have a long life. However, there is no substantive evidence as to how long the establishment period is expected to be, on average or for this particular enterprise. As such, given the

already substantial period of time that has passed, I cannot be certain that trade or business activities will come to fruition.

6. Therefore, whatever the appellant's intentions may have been around 2008-9 and beyond, and the stated desire to run the business upon retirement from his current profession, the evidence before me does not indicate that the building was in use for agricultural purposes as a trade or business at the relevant date. It has, therefore, not been demonstrated that the building benefits from permitted development rights to change use to a dwelling.
7. I note that site is at the edge of Abbotskerswell, with Newton Abbot also nearby, and that, until late in the application process, the appellant believed that prior approval would be forthcoming. However, these matters do not lead me away from my earlier finding which is based on the legislative requirements and evidence before me.
8. Therefore, the appeal is dismissed.

M Bale

INSPECTOR