



Appeal Decision

Site Visit made on 26 October 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2021

Appeal Ref: APP/F2605/W/21/3269568

**The Pavilion, Lodge Farm Estate, Lodge Lane, Gasthorpe, Diss, Norfolk
IP22 2TL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Paul Rackham Ltd against the decision of Breckland Council.
 - The application Ref: 3PN/2020/0061/UC, dated 19 November 2020, was refused by notice dated 21 January 2021.
 - The development proposed is described as change of use of agricultural building to a one bedroom dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the banner heading above is taken from the appeal form and decision notice, in the interests of precision.

Main Issue

3. Paragraph Q.1 of Part 3 of Schedule 2 of the GPDO sets out that development is not permitted by Class Q if, among other things, (a) the site was not used solely for an agricultural use as part of an established agricultural unit: (i) on 20th 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 20th March 2013, for a period of at least 10 years before the date development under Class Q begins. In this case, there is no suggestion that criterion (a)(iii) applies.
4. Within this context, the main issue in this case is thus whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO, with specific regard to whether the site was used solely for an agricultural use as part of an established agricultural unit on 20th March 2013, or if in use before but not on that date, when it was last in use.

Reasons

5. The appeal site comprises The Pavilion, which is a single-storey, pitched roof building with blockwork walls clad in timber. It is surrounded on three sides by an open field.

6. The Class Q appeal dismissal in June 2020¹ (the 2020 appeal decision) found among other things, that the appeal building was not used solely for an agricultural use as part of an established agricultural unit on the relevant date. Since the 2020 appeal decision, the appellant has provided further documentation from a previous tenant of the appeal site, that includes a Statutory Declaration (SD) by the previous tenant, a Farm Business Tenancy agreement (FBT) for the period 1st April 2011 to 30th March 2012 and an, albeit unsigned, Grazing Licence (GL) document for the period 1st April 2012 to 31st December 2012.
7. In the light of the above, a key question is whether the new evidence, in combination with other appeal evidence, unambiguously supports a different finding, compared to the 2020 appeal decision, of sole agricultural use of the appeal site on the relevant date as part of an established agricultural unit, under the terms of Paragraph Q.1(a).
8. Assuming their accuracy, the SD², together with the FBT, GL and appellant's photographs³ indicate that part of the appeal building, excluding the bar and toilet areas, was used in the period between the late 1990s and around 2018 for storage of various agricultural items such as animal foodstuff, straw, shorn wool and implements, in association with the tenant's grazing of sheep and cows on local land.
9. Nevertheless, judging by the SD, around between a quarter and a third of the appeal building, comprising the bar and toilet area, was not used for agricultural purposes in the period between the late 1990s and approximately 2018. Furthermore, the SD does not specifically rule out some cricketing and associated social activity at the appeal building on or before 20th March 2013.
10. It is undisputed that The Pavilion building was designed, constructed, named and fitted out as a sports pavilion, and has been used for cricket and associated social activity in the past. Notwithstanding the somewhat declining fabric of the building, and the presence of straw, sheep feed and fencing to suggest some contemporary agricultural use, I saw during my site visit that the building's remaining bar fittings, including cooker socket and other plug sockets, and several toilets with basins and taps, continue to point to previous cricketing and associated social activity at the site.
11. Furthermore, the previous Inspector's observations of the building, its fixtures and signs of use, on their site visit as recently as June 2020, indicate some previous cricketing and associated social activity at the appeal site, quite possibly well beyond the cricket club apparently disbanding in 1998. Such signs of use included curtains still in place in June 2020 and photographs showing coat hooks, position of a dart board, the bar and entrance to toilets in the building. Furthermore, the appellant apparently acknowledges the possibility of the building's sports pavilion use continuing after 1998, during an unspecified period described as an 'effluxion of time'⁴. Also, no direct verification by the local cricketing community, for example, is presented to unambiguously indicate when sporting and associated social activities at The Pavilion building ceased.

¹ Appeal Ref: APP/F2605/W/20/3246665.

² As described in paragraphs 3, 8 and 10 of the SD.

³ Undated but stated to have been taken in February 2018.

⁴ As per paragraph 23 of the appellant's Grounds of Appeal statement.

12. While the application form describes the use of the building on 20th March 2013 or the last use date before that as 'to shelter sheep', the SD makes no mention of sheltering livestock in the building between the late 1990s and approximately 2018. Moreover, the previous Inspector's observation of lack of internal wear and tear in the building raises some doubt about the extent of any sustained use to shelter livestock. The above factors together add ambiguity about the exact nature and timing of agricultural activity on the site.
13. Drawing the strands together, I find that while it appears at least some agricultural storage took place in part of the appeal building in the period between the late 1990s and approximately 2018, there is ambiguity about the exact chronology and nature of activity at the building. This ambiguity centres on when cricketing and associated social activity ceased at the appeal site, and inconsistency between documents regarding sheltering of livestock.
14. Thus the evidence, including the statement in the SD⁵ that the pavilion was 'in constant use during the time that I used it', does not unambiguously demonstrate that the building was solely used for the tenant's agricultural business on or before 20th March 2013.
15. Also, while the SD and GL indicate grazing of Lodge Farm's grassland, it is open to question whether there was agricultural activity at the appeal building at the relevant date which amounted to being part of an established agricultural unit.
16. Consequently, it is not unambiguously and decisively demonstrated that the site was used solely for an agricultural use as part of an established agricultural unit on 20th March 2013, or if in use before but not on that date, when it was last in use. As such, the proposal fails to satisfy Paragraph Q.1(a) of Part 3 of Schedule 2 of the GPDO, and so does not constitute permitted development.

Conclusion

17. For the reasons given above, I conclude that the proposal would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO and, consequently, the appeal fails.

William Cooper

INSPECTOR

⁵ Paragraph 10.