



Appeal Decision

Site visit made on 14 December 2021

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 25th January 2022

Appeal Ref: APP/Y2430/X/20/3255384

The Little Building, Old Manor Farm, Sandpit Lane, Long Clawson, Melton Mowbray LE14 4NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 appeal is made by Mr David Clarke against the decision of Melton Borough Council.
 - The application Ref 20/00514/GDOCOU, dated 13 May 2020, was refused by notice dated 3 July 2020.
 - The development proposed is notification for prior approval for a change of use of agricultural building to a dwellinghouse (Class C).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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), planning permission is granted for the change of use of an agricultural building to a dwellinghouse, subject to limitations and conditions.
3. Where an application is made for a determination as to whether prior approval is required for development, paragraph W(3) of Part 3 provides that the local planning authority may refuse the application where it considers that the proposed development does not comply with the conditions, limitations or restrictions that are applicable to such permitted development.
4. The Part 3, Class Q right applies if the building was solely in agricultural use – and not in any mixed use with some agricultural element – on 20 March 2013 (the 2013 date), or when last in use. There must have been no intervening change of use by the time of my decision.
5. Furthermore, the right does not apply if permitted development under Class A(a) or Class B(a) of Part 6 of Schedule 2 to the GPDO (agricultural buildings and operations) has been carried out on the established agricultural unit since 20 March 2013.

Main Issue

6. The main issue is whether the proposal satisfies the requirements of the GPDO with regard to being permitted development under Class Q.

Reasons

Whether the building has been in agricultural use

7. Section 336(1) of the Town and Country Planning Act 1990 refers to a number of activities defined as "agriculture". The appellant submits that a broader range of activities should be referred to within the section and states that case law interprets the section, but does not qualify either statement further.
8. Companies House records show that a blacksmithing business, which was incorporated in April 2017, was registered at the appeal building in 2019-2020. It is submitted that this was the business's registered address until March 2020, which is uncontested. An extract from the business's website includes a photograph showing blacksmithing work being undertaken in the appeal building, and refers to the use of a workshop. A flue/chimney and adjacent portable toilet were noted at the building at a site visit by the Council, and were present at the time of my site visit. These additionally suggest the carrying out of non-agricultural activities at the building.
9. Whilst the appellant suggests that these records may be inaccurate, no substantive contradictory evidence is provided. Thus, whilst the submitted evidence concerning the building's use on 20 March 2013 is minimal, the evidence as a whole suggests that the use of the building over at least the period 2017-2020 was mixed or solely non-agricultural.

Whether permitted development has occurred since 20 March 2013

10. Class A(a) of Part 6 of Schedule 2 to the GPDO (agricultural buildings and operations) provides that the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of works for the erection, extension or alteration of a building which are reasonably necessary for the purposes of agriculture within that unit is permitted development.
11. Class B(a) of Part 6 of Schedule 2 to the GPDO provides that the carrying out on agricultural land comprised in an agricultural unit, of not less than 0.4 but less than 5 hectares in area, of development consisting of the extension or alteration of an agricultural building where the development is reasonably necessary for the purposes of agriculture within the unit is permitted development.
12. The Council considers that works to alter and extend the building's roof which are documented in an enforcement case appraisal report of December 2014 comprise development permitted by one of either Class A(a) or B(a), and hence that the Part 3, Class Q right does not apply. The appellant considers that the works did not comprise permitted development.
13. However, there is minimal evidence before me to demonstrate whether the works to the roof were reasonably necessary for the purposes of agriculture. Furthermore, any permission granted by Article 3(1) of the GPDO is subject to any relevant exception, limitation or condition specified in Schedule 2. There are several of these in the case of both Class A(a) and B(a), and the evidence does not demonstrate that the roof works complied in all relevant aspects. As a result, there is insufficient evidence for me to concur with the Council's view that the Part 3, Class Q right does not apply because permitted development under Class A(a) or Class B(a) of Part 6 of Schedule 2 to the GPDO has been carried out on the established agricultural unit since 20 March 2013.

Other Matters

14. Paragraph W(2)(b) of Schedule 2, Part 3 of the GPDO states that an application “must be accompanied by...a plan...showing the proposed development”. The application is not accompanied by a plan which shows the replacement of doors, which the application form indicates would be necessary building works. As a result, it does not comply with the paragraph and therefore I have treated the application as seeking a change of use under Class Q(a) only, rather than a change of use together with building operations under Class Q(b).

Conclusion

15. Even if the building was solely in agricultural use as part of an established agricultural unit on 20 March 2013, I have found above that an intervening change of use has occurred. Accordingly, the proposal does not satisfy the requirements of the GPDO with regard to being permitted development under Class Q.
16. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR