



Appeal Decision

Site visit made on 16 May 2022

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2022

Appeal Ref: APP/A0665/W/21/3287215

Land at Jackswood Farm, New Hey Lane, Willaston, Neston, CH64 2UU

- 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 Ms C Moore against the decision of Cheshire West and Chester Council.
 - The application Ref 21/02027/PDQ, dated 5 May 2021, was refused by notice dated 5 July 2021.
 - The development proposed is the prior notification of a change of use under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 to convert an agricultural building to a dwelling
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal relates to an application for the change of use of an agricultural building and associated operations under Paragraphs Q (a) and Q (b) of the *Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)* (GPDO). There is no dispute between the main parties with regard to the compliance of the scheme with paragraphs Q.1 (b) to (m). Based on the evidence before me and observations I made at my site visit, I have no reason to take a different view in terms of compliance with these particular paragraphs. Therefore, the focus of my determination of the appeal has been the area of difference between the parties which relates to paragraph Q.1(a).
3. Consequently, the main issue in the appeal is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO, with particular reference to whether or not the building was last used solely for agricultural use as part of an established agricultural unit.

Reasons

4. The agricultural building that is the subject of the appeal is a relatively modern portal frame structure. The walls consist of concrete blocks at the bottom with timber boarding above, and doors on both gable ends. Internally there are 5 loose boxes on either side of a central passageway. At the time of my site visit a number of these were being used for storage of various items, some of which appeared agricultural in nature, others of which were not.

5. Paragraph Q.1(a) indicates that in order to be permitted development under Class Q the building had to be used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or in the case of a building which was in use before that date but not on that date, when it was last in use.
6. The appellant's evidence includes a number of sworn statements from family members and other people who have been involved at the farm since it was purchased by her father in 1995. The statements by both Mr C W Moore and Mr S Moore both indicate that after improvements were made to the building in 1995/96, it was used between 1996 until 1999 for a mixture of horses and pigs and so was not solely in agricultural use. There is no evidence to indicate how much of the building was used for either of these uses. However, it is stated that in 1999 the appellant's family ceased to keep any horses at the site as they had all the equestrian facilities they needed at another property.
7. During the late 1990s there were plans to expand the pig enterprise. To this end planning permission for an additional building and other works was submitted in 1998¹ as well as a separate application for a temporary dwelling and office building². The appellant has provided a report produced by a consultant acting on behalf of the Council for these applications. From this it is clear that pig farming had started at the site by 1997 at the very latest and that the stable block was being used, albeit on a temporary basis, to house pigs.
8. Both these applications were refused but in December 1998 a revised application³ for the pig building and other works was submitted. This was granted permission on 8 March 2000. However, it is indicated that due to changes in the family's circumstances in 2000, this was not implemented and in fact the pig enterprise ceased in the same year.
9. The Officer's report for this application says that "following a recent site inspection it appears that the level of pig farming may have reduced, with less than about 50 pigs on the site currently. The smaller building is currently used to stable horses." The smaller building is the building that is the subject of the current appeal.
10. The date of this site visit is not known, other than being described as "recent". Given the determination date of 8 March 2000, it is reasonable to presume that it is likely that the site visit was either conducted at the end of 1999 or the start of 2000. Similarly, the appellant's evidence does not specify when in 1999 they ceased to have horses on the site or when in 2000 the pig enterprise ceased.
11. If the Officer's site visit was in late 1999, it is not inconceivable that the horses had not all been removed by that stage which is why the building was still being used for stabling. In addition, if the pig enterprise finished early in 2000, this could explain why there were only around 50 pigs on the site at the time of the visit.
12. Since then, the appellant's evidence states that the building has not been used for any livestock, other than in 2011 when it was used to house a horse for a short period of time before it was sold as it kept escaping from a field.

¹ Application reference P/98/290

² Application reference P/98/296

³ Application reference P/99/3

13. It is stated that since then the building has been used “to some extent” for storage including of farm equipment and materials such as fuel and fertiliser. Since 2007 a third party indicates that they have used some of the adjacent fields for the grazing of horses, although since 2012 they state they have only used the fields on an occasional basis. Whilst this person indicates that they have access to the appeal building, they state that the horses were not kept in it, albeit that it may have been used to tie up a horse to enable a vet to inspect the animal.
14. Permission was granted in 2009 to establish an equine breeding /rehabilitation facility at the site but whilst part of this was implemented the change of use has not occurred, and no alterations have been made to the appeal building as a result of this permission.
15. The Council have referred to comments by neighbouring residents made on a previous application which suggest that the building was rented out for horse livery for a “few years” until 2013 and that horses owned by tenants and others were stabled, fed, groomed and ridden out from the stables in this building. However, this is contradicted by the evidence in the 4 sworn statements, which indicate that whilst fields were used for the grazing of horses by a third party, the building was not used for stabling. None of the statements indicate that a livery business has ever operated on the site.
16. I observed at my site visit that the site and building is not directly overlooked by any of the houses on New Hey Lane, as it is set some distance from them, along an agricultural track that leads only to the farm. As such, in my view, the ability of residents to accurately ascertain the use of the building is limited. Given it contradicts the sworn statements from 4 people I give this evidence no weight.
17. The Council’s evidence also refers to site visits and photos made in relation to planning applications in 2008 and 2009⁴. It is stated that at these visits there was no evidence of any pig farming in the building. However, given the appellant stated that the pig farming ceased in 2000, this is not unexpected and does not show that pig farming did not utilise the building.
18. The photos from the site visits show that the building had 5 loose boxes on either side of the building. This is still the case today. The appellant’s evidence indicates that after the building was improved in 1995, the animal stalls installed in the building were chosen to enable the building to be used flexibly for livestock as well as horses. From what I observed, although equestrian in character, there was nothing that would have prevented them being used for pigs. The fact that they were indeed used in this way is shown by the agricultural consultant’s report referred to above.
19. The mere presence of loose boxes in the building does not indicate that the building was actively being used for stabling after 2000, nor does the fact that the annotation on the photos refers to them as horse boxes. None of the photos show horses in the stalls. Indeed, the Officer’s report for the application in 2009, states that the stables did not appear to have been used for some time, which clearly indicates the building was not at that stage being used for equestrian use and had not been for some time.

⁴ Application references P/2008/101/WT/16 and 09/20104/FUL

20. However, no mention is made either of the building being used for storage. This suggests that whilst the building may have been used for some storage, it was low key and informal rather than being the substantive use of the building. This accords with what I saw at my site visit.
21. Bringing all this evidence together, I consider that, although used informally for some storage, in terms of paragraph Q.1(a) of the GPDO on 20 March 2013 the building was not in use and that its last use was sometime in 2000.
22. It is clear that for the majority of the time after improvements were made to the building in 1995/96, the building was used for both equestrian and agricultural use and there is no precise evidence of when either of these uses ceased. Therefore, on balance, I consider that it has not been demonstrated satisfactorily that when the building was last used, it was used solely for agricultural purposes rather than being used for mixed purposes.
23. Consequently, from the evidence before me, I am not satisfied that when the appeal building was last in use it was used solely for agricultural purposes. Therefore, this precludes the proposal from being permitted development under Class Q.

Conclusion

24. For the reasons set out above, I conclude the proposal is not permitted development and the appeal should be dismissed.

Alison Partington

INSPECTOR