



Appeal Decision

Site visit made on 27 July 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24th August 2022

Appeal Ref: APP/E2340/W/21/3287851

Agricultural Barn, Hainslack Barn Farm, Warley Wise Lane, Black Lane Ends, Colne BB8 7ES

- 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 M Greenwood against the decision of Pendle Borough Council.
 - The application Ref 21/0612/AGD, dated 20 July 2021, was refused by notice dated 23 September 2021.
 - The development proposed is the change of use of agricultural building to dwelling house (Use Class C3)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) permits the change of use of a building and land in its curtilage from use as an agricultural building to a dwellinghouse, with any building operations reasonably necessary for the conversion.
3. This is not permitted if the site was not used solely for an agricultural use as part of an established agricultural unit: (i) on 20 March 2013; (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.

Main Issue

4. The main issue is whether the proposal would be permitted development under the provisions of Schedule 2, Part 3, Class Q of the GPDO, with particular focus on whether the site was used solely for agricultural use as part of an established agricultural unit.

Reasons

5. The appeal property comprises a building at Hainslack Barn Farm set within the open countryside. The proposal seeks to convert the building to a dwelling in accordance with Schedule 2, Part 3, Class Q of the GPDO.

6. The appellant states that the appeal building has been used for agricultural purposes for many years. The Council described the building as agricultural in documents from 2010, and a photograph has been provided showing its use for storage of hay and a tractor around this time. However, an application was approved in 2010 for the change of use of land to equine use, the plans for which included the appeal building. Permission for stable blocks adjacent to the building was then granted in 2013, which I observed to be in use at the time of my visit.
7. The appellant maintains that an agricultural business remains, but provides limited substantive evidence in this regard. Nevertheless, even if it were deemed to remain part of an agricultural unit, to benefit from the rights under Class Q the appeal building must have been used solely for agricultural use on 20 March 2013.
8. The appellant accepts that horses were brought to the site around 2011/2012 for private use, and housed at times in the appeal building. Given that they were on site for private purposes, use of the appeal building for their accommodation would not be deemed an agricultural use. Even if temporary, ad hoc, and carried out alongside agricultural activities, it remains that the building would not have been solely in agricultural use at these points in time.
9. The appellant further accepts that this keeping of horses in the building coincided with site visits from the Council "around 2012/2013". Council site visit notes dated 6 June 2013 record that an existing barn was being used, among other things, as a stable for 3-4 horses, which the Council contends to refer to the appeal building. The appellant provides conflicting evidence on this point, referring to a separate stable having been erected in 2012, yet acknowledging elsewhere that there was no accommodation for horses on the site between 2012 and 2013, other than the appeal building and loose horse boxes.
10. Whilst it is not for this appeal to determine whether there has been a material change of use of the land, the evidence before me indicates that the building has been used for accommodating horses for private use at various dates from 2011/2012 until some point in 2013. It is therefore unclear the extent to which, if at all, the appeal building was used as an agricultural building on 20 March 2013, which has not been proven on the balance of probability.
11. Schedule 2, Part 3, Paragraph W of GPDO states that the Council may refuse an application where, in its opinion, the developer has provided insufficient information to establish whether the proposed development complies with any conditions, limitations or restrictions applicable to the development. As set out above, in this case there is insufficient supporting evidence to adequately and conclusively demonstrate that the appeal building would have been used solely for an agricultural use as part of an agricultural unit on 20 March 2013 to comply with the requirements of paragraph Q.1(a) and (b) of the GPDO. On this basis, the proposal would not be permitted development.

Conclusion

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

C Rafferty

INSPECTOR