



Appeal Decision

Site visit made on 18 October 2022

by C Megginson BA(hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2022

Appeal Ref: APP/N4720/W/22/3303456

Adams Potatoes Ltd, Barn south of Rakehill Road, Barwick In Elmet, Leeds LS15 4JL

- 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, Schedule 2, Part 3 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Adams Potatoes Ltd against the decision of Leeds City Council.
 - The application Ref 21/10186/DPD, dated 20 December 2021, was refused by notice dated 6 May 2022. The development proposed is Prior notification for conversion of agricultural building to single dwelling under Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO) 2015.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council have confirmed withdrawal of the second part of the reason for refusal. Consequently, there is no dispute that the current proposal meets the requirements of Article 3, Schedule 2, Part 3, Class Q, paragraph Q.1(d) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). However, the Council's concerns remain with respect to the first reason for refusal in terms of non-compliance with Class Q, paragraph Q.1(a) (i) and (ii).
3. Schedule 2, Part 3, Paragraph W of the GPDO, in summary, states that the local planning authority may refuse a prior approval application where the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval.

Main Issue

4. The main issue is whether the proposed development would be permitted development under Article 3, Schedule 2, Part 3, Class Q of the GPDO.

Reasons

5. Class Q of the GPDO permits a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) subject to a number of criteria.

6. Paragraph Q.1 of the GPDO sets out the circumstances when development would not be permitted. Of these, the Council cites Q.1 (a), that the site was not used solely for an agricultural use as part of an established agricultural unit (i) on 20 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.
7. The appeal site was granted consent for the change of use of the building to potato warehouse storage on appeal in 1991. The use of the building has not been continuous for potato storage but the appellant states that it has remained the use, along with equipment and machinery storage, on and off since 1991. Both parties agree that the building is agricultural in its use, and that the on and off use of the building does not equate to an abandonment of its agricultural use. However, Q.1 (a) requires that the site form part of an established agricultural unit. 'Site' is defined in Paragraph X as *'the building and any land within its curtilage'*. An 'established agricultural unit' for the purposes of Part 3 means agricultural land occupied as a unit for the purposes of agriculture.
8. Since there is no definition in the GPDO, the meaning of 'agriculture' should be taken from s336(1) of the Town and Country Planning Act 1990, which sets out examples of agricultural activities. The s336(1) list is not exhaustive but includes: *'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock...the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds'*.
9. The building and its small curtilage stand alone and the evidence before me provides very limited evidence to connect it to a wider agricultural operation either in the immediate vicinity or further afield. The appellants planning statement refers to *'the farm'* but provides no additional information as to the location of the farm, or how it relates to the building as part of an established agricultural unit. I note that the photographs provided show the storage of potatoes within the building and that an internal site visit by the council may have shown this storage taking place. However, no evidence has been provided with regards to the origin of the stored potatoes or how the storage forms part of a wider established agricultural unit, for example, details of the wider operation where the potatoes are grown.
10. Therefore, from the evidence available, the proposed development fails to demonstrate how the site was used solely for an agricultural use as part of an established agricultural unit as required by Paragraph Q.1 of the GPDO. Consequently, it would not be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Conclusion

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

C Megginson

INSPECTOR