



Appeal Decision

Site visit made on 30 November 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2023

Appeal Ref: APP/W0530/W/22/3298310

**Gage Farm, Land & Buildings to the East, Branch Road, Comberton,
Cambridgeshire CB23 7DH**

- 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 GPDO).
 - The appeal is made by Mr Abdullah Gokteke against the decision of South Cambridgeshire District Council.
 - The application Ref 22/00964/PRIOR, dated 25 February 2022, was refused by notice dated 21 April 2022.
 - The development proposed is change of use of agricultural building to dwellinghouse (use class C3) and associated operational development.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by South Cambridgeshire District Council against Mr Abdullah Gokteke.
3. An application for costs was also made by Mr Abdullah Gokteke against South Cambridgeshire District Council.
4. These applications are the subject of separate Decisions.

Preliminary Matters

5. I have taken the location of the appeal site from the application form and the description of the development from the appeal form as these appropriately represent the proposal.

Main Issues

6. The main issues are whether the proposal would be permitted development under the provisions of Class Q of the GPDO. More specifically:
 - Whether the site was used solely for an agricultural use as part of an established agricultural unit on or before 20 March 2013 and whether there has been no intervening or other use; and
 - Would the building operations be considered reasonably necessary to convert the building to a use falling within Class C3 of the Use Classes Order (UCO).

Reasons

Whether Established Agricultural Unit

7. Schedule 2, Part 3, Class Q of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 of the UCO. Class Q Paragraph Q.1(a) of the GPDO goes on to state that development is not permitted if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. The agricultural use should also be the extant or last use of the site, with no intervening or other use.
8. The appeal site includes a building, access track and an extent of land within a wider landholding. At the time of my visit the building consisted of an open frame. As shown on the submitted plans, the appellant's landholding outside of the appeal site includes a field extending to the front of the building, and other buildings to the side and rear of the site. The access track serves the building which is the subject of this appeal as well as the nearby buildings.
9. The appellant refers to a sequence of planning decisions from the 1970's and up to the 1980's which indicate that the property was in agricultural use at that time.
10. However, more recent proposals for residential development at the site specify that the land was used for equestrian activities, which cannot be considered to be either agricultural or forestry buildings and should therefore be assessed as previously developed land. This approach was agreed by the Council. This previous proposal was subject to scrutiny through a planning application¹ submitted by the appellant which was refused permission and subsequently dismissed at appeal².
11. The appellant submits that the previous proposal was based on an error, in that their then planning agent assumed that the buildings in the appellant's landholding were stables on the basis of a planning search which referred to stables on a nearby plot of land. The appellant highlights that the Council's Officer Report on the previous proposal refers to the application for stables on the neighbouring site as part of the planning history for the appellant's landholding. However, a planning permission for stables on a neighbouring plot of land is not substantive evidence that buildings on the appellant's landholding were not used for equestrian purposes.
12. The appellant contends that throughout the relevant time the appeal property was part of an agricultural unit used for farming livestock, and refers to the beef-raising and fattening unit described in a 1976 Appeal Decision³. However, this does not demonstrate that there was no intervening use since. The appellant also states that local enquiries confirm that the site's last use was for agriculture, although this is only referred to in general terms and is not supported by sworn affidavits or third party statements.
13. Reference is also made to a lack of Council Tax and National Non-Domestic Rates records for the appeal site. However, this is not determinative of the established planning use of the site.

¹ 20/01076/OUT

² APP/W0530/W/20/3258419

³ T/APP/5142/A/75/5958/G8

14. I am also mindful that the submitted plans in respect of the appeal before me refer to the nearby buildings within the appellant's landholding as stables.
15. Under paragraph W of this Part of the GPDO, the Local Planning Authority may refuse an application where the developer has provided insufficient information to establish whether the development complies with any conditions, limitations or restrictions in Part 3. The onus of proof on this matter therefore rests with the appellant, and even given a degree of uncertainty about the use of the appeal site and any agricultural unit the appellant's evidence on this issue is not persuasive.
16. On balance and based on the evidence before me, I conclude that the appellant has provided insufficient information to establish whether the appeal site was used solely for an agricultural use as part of an established agricultural unit on or before 20 March 2013 and whether there has been no intervening or other use. The proposal would therefore not comply with Q.1(a) of Class Q and paragraph W of Part 3, and would therefore not be permitted development.

Whether a Conversion

17. Class Q(b) of the GPDO includes building operations which are reasonably necessary to convert the building to a use falling within Class C3 of the UCO. Class Q.1(i) sets out a range of building operations, but also states that these should be to the extent reasonably necessary for the building to function as a dwellinghouse.
18. As set out in the Planning Practice Guidance (the Guidance), it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right. The difference between a conversion and a rebuild has also been discussed in the *Hibbitt*⁴ judgment.
19. The plans and elevations as existing⁵ submitted for the appeal proposal depict the building as having a roof and much of the elevations covered with cladding. However, at the time of my visit the building was an open frame with no cladding. I also note that a previous appeal decision⁶ and structural report⁷ for the site indicate that the building is of an open framework, and that these pre-date the existing plans as submitted for this appeal proposal. The Council also refers to a lack of a floor in the building as set out in the previous structural report.
20. Although photographs in the Appellant's Structural report⁸ submitted with the appeal proposal show that the building was covered with profile asbestos cement roof sheeting at some point, these are of a historic nature and do not represent the current form of the building.

⁴ Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin).

⁵ Plan dated Jan 2022

⁶ APP/W0530/W/20/3258419 – Site Visit made on 11 January 2021.

⁷ Appendix E of Council's Statement – AFP ref. PLS/sas/21/0624, 22 November 2021

⁸ Historic Photographs 1 and 2, AFP ref PLS/sas/21/0624 Rev B

21. Given what I have seen and read, the existing building consists of a skeletal open frame and has existed as such for a material period of time, which includes the date of the application regarding prior approval.
22. Given the extant state of the building, the proposal would require new walls and a roof over the entire external envelope. A new floor pad would also need to be provided. I acknowledge that substantial works can fall within the scope of Class Q. But nevertheless they should comprise of a conversion of the building rather than a rebuild, and I have had regard to *Hibbitt* and the Guidance on this matter. The scale and nature of the works would involve rebuilding work which would go beyond what is reasonably necessary to convert the building to a residential use and would in effect represent a rebuild. Even if the frame is retained and would be capable of supporting the resultant building, as a matter of fact and degree the extent of works exceed what could reasonably be described as a conversion.
23. The appellant refers to their Structural Report which states that the barn may be converted to the proposed habitable accommodation. However, it has not been demonstrated that this conclusion was reached in the light of *Hibbitt* or the Guidance. The appellant's Structural Report does not therefore lead me to a different conclusion based on my own observations and the evidence before me.
24. I therefore conclude that the proposal would not fall within the scope of Class Q(b) of Part 3 of the GPDO and would therefore not be permitted development.

Conclusion

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

David Cross

INSPECTOR