



Appeal Decision

Site visit made on 26 September 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2023

Appeal Ref: APP/X1355/W/23/3321300

Laurendale Farm, Fleming Field, Shotton Colliery, County Durham DH6 2JQ

- 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) Order 2015 (as amended).
 - The appeal is made by Mr James Anderson against the decision of Durham County Council.
 - The application Ref DM/23/00069/PNC, dated 5 January 2023, was refused by notice dated 7 March 2023.
 - The development proposed is prior notification for the change of use of an agricultural building to a dwelling.
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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), development is permitted for the 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 (dwellinghouses) subject to limitations and conditions set out in paragraphs Q.1 and Q.2.
3. Paragraph Q.1 sets out circumstances where development is not permitted. Q.1(a) states that development is not permitted if— (a) the site was not used solely for an agricultural use as part of an established agricultural unit— (i) on 20th 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, 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.
4. Schedule 2, Part 3, Paragraph X of the GPDO further sets out that for the purposes of Part 3 permitted development rights, 'agricultural building' means a building (excluding a dwellinghouse) used for agriculture and which is also used for the purposes of a trade or business, and 'agricultural use' refers to such uses. 'Established agricultural unit' means agricultural land occupied as a unit for the purposes of agriculture – for the purposes of Class Q, on or before 20 March 2013 or for 10 years before the date the development begins.
5. Paragraph W.3(b) of the GPDO states that the Council may refuse an application, where in the opinion of the authority the developer has provided insufficient information to enable the authority to establish whether the

proposed development complies with any conditions, limitations or restrictions specified in this part as being applicable to the development in question.

6. The Council's reason for refusal relates to whether or not the building was an agricultural building and whether the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013.

Main Issue

7. Accordingly, the main issue is whether the proposed development would comply with the requirements under Article 3(1), Schedule 2, Part 3, Class Q of the GPDO, having particular regard as to whether the building was an agricultural building used solely for an agricultural use as part of an established agricultural unit on 20 March 2013.

Reasons

8. The appeal site comprises a single storey building, sited adjacent to a range of other single storey buildings including stables, residential dwellings, and caravans. To the west of the appeal site is a large area of land used for caravan storage. The immediate surrounding area is predominantly open fields and countryside, situated to the edge of the village of Shotton Colliery. During my site visit I observed a range of uses and activities taking place within the wider site.
9. The evidence before me concerning agricultural use, includes accounts in the name of J & D Egg and Poultry supplies, as well as in the name of Mr and Mrs J & D Anderson. The accounts cover a short period of time, between 2000 and 2005 and there are some inconsistencies in terms of the business or businesses they relate to. Whilst the appellant also states that the building was in use in 2013, this is not supported by any substantive evidence or sworn statement to demonstrate that the building was in an agricultural use at this time. Furthermore, the agricultural holding number provided, which was issued some 25 years ago and is addressed to an entirely different location does not sufficiently demonstrate on the balance of probabilities a link to the building in question.
10. I therefore find that whilst the evidence indicates that the appellant was involved in some poultry farming activities between 2000 and 2005, it does not sufficiently demonstrate that the activity took place within the building, nor that the activity was undertaken as part of an established agricultural unit at the appeal site. In these circumstances, the burden of proof is on the appellant and for the foregoing reasons, in this case, on the basis of the evidence before me, I find that it has not been demonstrated as to whether the site complies with the requirements Schedule 2, Part 3, Class Q of the GPDO.
11. Consequently, even though the building may have been permitted as an agricultural building, there is little substantive evidence to demonstrate that the building was solely used for an agricultural use as part of an established agricultural unit in compliance with Paragraph Q.1(a) of Class Q of the GPDO. Therefore, it is not demonstrated the proposal falls within the scope of permitted development rights granted under Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

12. My attention has been drawn to the Hibbitt¹ judgement. However, there is no dispute between the parties, that the building is capable of conversion and the submitted plans and evidence demonstrate that the building operations would comply with the requirements of Paragraph Q.1 of Class Q of the GPDO. Nevertheless, this does not alter my findings on the main issue above.

Conclusion

13. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal is dismissed.

K Lancaster

INSPECTOR

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