

Appeal Decision

Site visit made on 14 November 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2024

Appeal Ref: APP/H1515/W/23/3317114

Legh Cottage, Horseman Side, Navestock, Essex RM4 1DN

- 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 Paul Buckley against the decision of Brentwood Borough Council.
 - The application Ref 22/00980/PNCOU, dated 5 July 2022, was refused by notice dated 25 August 2022.
 - The development proposed is described as "Prior notification Class Q for the conversion of an existing agricultural storage building to one dwellinghouse".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form did not include a description of development. I have therefore taken the description from the appellant's appeal form.
3. The evidence before me suggests that the appellant attached two aerial photographs to their appeal statement, which were considered by the Council in their response. However, the appellant failed to attach these images when submitting their appeal to The Planning Inspectorate. After repeated requests for these images to be supplied by the appellant, only the 2006 image was submitted. I have therefore determined the appeal on this basis.

Main Issue

4. The main issue is whether the development is permitted by Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO').

Reasons

5. The appeal site comprises a small rectangular-shaped piece of land that is separated from the surrounding paddocks/fields by a post and wire fence. It is accessed from Horseman Side to the north. Sited on the land is a rectangular-shaped single storey building comprising light grey metal sheeting to the exterior walls and green metal and opaque sheeting to the roof. Access into the building is via a sliding door within the southern elevation.
6. The main parties disagree when the building was erected. The Council has submitted an aerial photograph that shows a structure on the appeal site on 28

April 2013 that is clearly not the appeal building due to its size, roof shape and colour. The provenance of the aerial photograph's date has been provided.

7. The appellant has submitted a photograph taken of a computer screen displaying an aerial image of the site that is annotated 'November 2006' and 'Imagery date 09/10/2006'. It is unclear which date the aerial photograph was taken, and no provenance has been provided. Notwithstanding this, the photograph depicts a similar scene to the Council's April 2013 aerial photograph. Consequently, the evidence before me demonstrates that the appeal building was not in-situ on 28 April 2013 and therefore was constructed after this date. Accordingly, the building cannot have been used for agricultural storage purposes on or before 20 March 2013, as it did not exist.
8. The appellant's chronology indicates that sheep were kept on one of the fields for two years but ceased in 2013, and that food and bedding for the sheep was stored but does not state where it was stored. The subsequent uses (the keeping of horses, carp and retired racing greyhounds) are, from the information before me, not agricultural uses.
9. At the time of my site visit, there was no evidence that the surrounding paddocks/fields were being used for agricultural purposes, with no animals present and no arable crops. From my own observations on my site visit and from the submitted photographs, it is clear that a large proportion of the land within the appellant's ownership has been subdivided into smaller paddocks and is mown, and the photographs show one of these paddocks occupied by horses and another occupied by greyhounds. Furthermore, an outdoor swimming pool and football goals occupy another parcel of land, while a trampoline was sited adjacent to the appeal building at the time of my visit.
10. At the time of my visit, the building was being used for the storage of a mix of items including a tractor, logs, equipment used in association with greyhounds, an exercise machine, a trailer, an electric circular saw and various storage bins. A large generator used to power the adjacent dwelling, also occupies a significant proportion of the building. The photographs contained in the Phase 1 Environmental Site Assessment show the storage of similar items, although a bale of hay was also shown that appeared to be used in conjunction with the keeping of horses. While some of the stored items could be associated with the upkeep of the surrounding land, most of the building appeared to be used for domestic/general storage purposes. Having regard to the definitions set out in Schedule 2, Part 3, paragraph X of the GPDO, I do not consider the building constitutes an agricultural building.
11. Consequently, from my own observations and the evidence before me, I am not persuaded that the land/building was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or in the case of a site which was brought into use after this date, for a period of at least 10 years before the date development under Class Q begins.
12. In reference to the main issue, the proposal would not be permitted by Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

13. Given my conclusion above, there is no need for me to consider the other requirements listed under paragraph Q.1 or the prior approval matters listed at paragraph Q.2, as it would not alter the outcome of the appeal.
14. The Council state they have no record of prior approval being sought for the building under Schedule 2, Part 6 of the GPDO, nor any planning permission. This has not been disputed by the appellant. Article 3(5) of the GPDO provides that the planning permissions granted by Schedule 2 of the GPDO do not apply if the building operation or use is unlawful. Therefore, even if the building is now immune from remedial action under planning law, no permitted development rights can be claimed in connection with the appeal building that has been constructed. As a result, and notwithstanding my findings above, the conversion of the building to a dwelling cannot be permitted by the GPDO. Instead, the proposed development is that for which express planning permission is required.

Conclusion

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

A Berry

INSPECTOR