



Appeal Decision

Site visit made on 8 October 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 16 October 2024

Appeal Ref: APP/X1545/W/24/3342555

Oakfield Farm Hyde Chase, Purleigh, Essex CM9 6TN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mike King against the decision of Maldon District Council.
 - The application Ref is PACUAR/MAL/23/00976.
 - The development proposed is change of use of an agricultural barn to a dwellinghouse (use Class C3).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Mike King against Maldon District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) were updated on 21 May 2024. However, due to transitional arrangements, I am required to determine this appeal in accordance with the provisions that were in force at the time the original application was submitted. All references to the GPDO in this decision therefore relate to the version that was in force at that time.
4. The application form did not include a description of development. Consequently, I have used the description on the appeal form, removing any wording that does not relate to an act of development.

Background and Main Issue

5. Under Article 3(1) and Schedule 2, Part 3, Class Q, of 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) together with building operations reasonably necessary to convert that building, subject to limitations and conditions.
6. The main issue in this case is therefore whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

7. Class Q permitted development rights apply to agricultural buildings, defined in Part X of the GPDO as meaning a building (excluding a dwellinghouse) used for agriculture and which is so used for the purpose of a trade or business.
8. The planning history provided by both parties identifies that the appeal building has been subject to a complex planning history, but that it was built for agricultural purposes originally. I note that the appellant on purchasing the appeal site made alterations to it, including changing the southern part of the building to a dwelling which was subject to enforcement action. I note this area of the building has been excluded from the prior approval application subject to this appeal.
9. The appellant identifies that in relation to the appeal building, an application for the change of use of an agricultural building to B1 light industrial use was submitted to the Council in 2016 which was refused. However, this was later allowed on appeal¹ in June 2017. The appellant has confirmed that the appeal building is now in light industrial/ business use following this grant of planning permission on appeal.
10. During my site visit I noted that the building was separated into three different units. It was not clear what was present in Unit 1, but Unit 2 appeared to be storage for a business use and Unit 3 was in active use by a tyre fitting business. In my view therefore, based on the evidence before me and what I witnessed during my site visit, the appeal building appears to be in a light industrial use currently, not an agricultural use. It cannot therefore comply with Class Q (a) which says development can only be permitted if it comprises the change of use of a building from a use as an agricultural building.
11. I acknowledge that a limitation of Class Q set out at Q.1 (a) (i) and (ii) states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013, or 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. The appellant asserts that the test is what the use of the building was on the 'operative date', in this case the 20th March 2013.
12. However, even if the use of the appeal building was agricultural on the 20th March 2013 and it would comply with the requirements of Q.1. (a) (i), the use of the building must not have changed from agriculture to another use between the 'operative date' and the time that the prior approval application or appeal is considered.
13. As the proposal would fail to constitute permitted development under Class Q, there is no need to consider whether prior approval under Class Q.2 is required.

Other Matters

14. The appellant asserts that the Council dealt with a previous prior approval application incorrectly, assessing a different building to the one applied for. Concerns are also raised about the consultation responses received by the Council from its ecological consultants and the Parish Council. However, these

¹ APP/X1545/W/17/3166779

matters have not been determinative in the consideration of whether the proposal would be permitted development under Schedule 2, Part 3, Class Q, of the GPDO.

Conclusion

15. For the above reasons, I conclude that the proposal does not comply with Schedule 2, Part 3, Class Q of the GPDO and it is not therefore permitted development. The appeal is therefore dismissed.

G Dring

INSPECTOR