

Appeal Decision

Site visit made on 20 February 2025

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 18th March 2025

Appeal Ref: APP/A4710/X/23/3334013

Lower Cragg Farm, Cragg Lane, Cragg Vale, Hebden Bridge HX7 5RU

- The appeal is made by Ben Roper under section 195 of the Town and Country Planning Act 1990 against a refusal by Calderdale Metropolitan Borough Council to grant a lawful development certificate.
 - The application Ref: 23/00682/192, dated 29 June 2023, was refused by notice dated 29 September 2023.
 - The application was made under section 192(1)(a).
 - The development for which the certificate is sought is "Change of use of agricultural building to one dwelling".
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Decision

1. The appeal is dismissed.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on the lawfulness of the proposed use if instituted at the time of the application. The planning merits of the proposed use are not relevant to the appeal and there is no planning application before me.
 3. The Council refused the application for the following reason: -

"1. The proposal has provided insufficient evidence to demonstrate that the site was used solely for an agricultural use as part of an established agricultural unit on 20th March 2013. Furthermore, the proposed design introduces a significant amount of glazing which would be incongruous in the landscape and is not considered to be reasonably necessary for the building to function as a dwellinghouse.

The proposal is therefore not in accordance with the criteria under Class Q of Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended 2018) and is not permitted development."
 4. The application for the certificate was made following the Council's failure to determine a prior approval application submitted in April 2022 for the change of use of this agricultural building to a dwelling under the provisions of Class Q.
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- The effect of this failure is that the change of use can be instituted provided it will comply with the conditions, limitations and restrictions in Class Q.
5. The Council's refusal of the application for the certificate is based on provisions that were in Class Q at the time, which indicate that the change of use will not be permitted if (A) the site was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013 or (B) it will include the installation of windows and doors to an extent that is not reasonably necessary for the building to function as a dwellinghouse.
 6. The onus is on the appellant in this appeal to make out the case that (A) will be complied with on the balance of probabilities. The Council have not produced any evidence of their own about the use of the building in 2013. The appellant's evidence is limited to a statement he signed on 22 October 2020. The statement claims to be a declaration made by virtue of the Statutory Declarations Act 1835 but it is not, since it has not been formally executed and appears to be only a draft. He indicates in the statement that he bought the site on 20 January 2016 and that the land was previously owned and farmed by Allan Ebrell who ran a commercial agricultural enterprise. The statement records that Allan Abrell has died and that no further details can be obtained.
 7. The Council take the view that this statement provides insufficient information to establish that the site was used solely for an agricultural use as part of an established agricultural unit on 20th March 2013. I agree, since insufficient information has been provided about the use Allan Ebrell made of the site and what use was being made of the site on 20 March 2013. The appellant has not made out a case that (A) will be complied with.
 8. I turn now to (B). The application plan is the Revised Planning Drawing No.R950 Sheet No.02. This shows that the dwelling would be two-storey and have windows on both floors in all the elevations. Most of the windows would do no more than provide adequate daylight to the rooms that they would serve. It is the glazing in the north-eastern gable end that the Council are particularly concerned about. This would consist of two sets of four folding glazed panes on the ground floor and two sets of glazed double doors on the first floor. They would allow the ground-floor lounge and kitchen diner to be opened up to the outside and the first-floor master bedroom and bedroom 2 to be opened up on to a balcony under an overhanging roof. They would facilitate the enjoyment of the extensive views to the north-east. It seems to me that these are quality contemporary design features that are reasonably necessary for the building to function as a dwellinghouse.
 9. However, I am satisfied that the Council's refusal of the application for the certificate is well-founded as far as it relates to (A). The appeal has therefore been dismissed.

D.A.Hainsworth

INSPECTOR