
Appeal Decision

Site visit made on 29 April 2025

by **Paul Martinson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2025

Appeal Ref: APP/P1045/W/24/3357582

Hay Barn, Upper Lane, Biggin DE6 3FH

- 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.
 - The appeal is made by Mr McCabe against the decision of Derbyshire Dales District Council.
 - The application Ref is 24/00917/PDA.
 - The development proposed is Change of use of agricultural building to 1 no. dwellinghouse (Use Class C3) and associated building operations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The refusal of the appeal application followed two earlier Council decisions to refuse prior approval, both of which were subject to a subsequent appeal. The first¹, of these was refused due to a lack of evidence that the building was solely in agricultural use as part of an established agricultural unit. The appeal was dismissed in 2021 for the same reason. The second² of these considered that the extent of redevelopment works undertaken to the appeal building as part of a previous planning permission³ meant that the site had been brought into use after 20 March 2013 and therefore had not been in agricultural use for a period of at least 10 years. It was dismissed at appeal in 2023 for this reason.
3. Since the determination of the previous applications and appeals, Schedule 2, Part 3, Class Q of the 2015 The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) has been amended by The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024 which came into effect on 21 May 2024. It was on this basis that the appeal application was made.

Main Issue

4. The main issue is whether the proposal would be permitted development, with particular regard to the requirements of paragraph Q1. (a)(i), namely, whether the appeal building was part of an established agricultural unit on 24 July 2023.

¹ Ref APP/P1045/W/21/3271492.

² Ref APP/P1045/W/22/3299235.

³ Ref 19/01286/FUL.

Reasons

5. Schedule 2, Part 3, Class Q of the GPDO permits the change of use of buildings on agricultural units and former agricultural buildings to dwellinghouses. Under paragraph Q1. development is not permitted by Class Q if: (a) in the case of a site that is part of an established agricultural unit, the site was not part of that unit (i) on 24 July 2023 or (ii) where the site became part of the unit after that date, for a period of at least ten years before the development under Class Q begins.
6. An agricultural building is defined by the GPDO as a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business. 'Agricultural use' refers to such uses. An 'established agricultural unit' for the purposes of the GPDO is defined in Schedule 2, Part 3, paragraph X as 'agricultural land occupied as a unit for the purposes of agriculture, and, for the purposes of Class Q, on, or before 20 March 2013, or for 10 years before the date the development begins'.
7. The appellant is of the firm belief that the appeal building was in use on 24 July as part of the 'established agricultural unit'. However, I have been provided with very little evidence as to what the appellant considers to be the established agricultural unit. It is understood that the land comprising the appeal site was previously owned and farmed by the occupiers of Church Cottage Farm. However, the appellant purchased the land and building in 2019. The redevelopment works took place following the grant of planning permission in 2020.
8. The current relationship between any agricultural business operated from Church Cottage Farm and the appeal site is unclear. Whilst there may be an arrangement to use the building on occasion to store fodder as is stated in letters provided by the appellant, this is not the same as occupying the land as part of the same agricultural unit. I have not been provided with details of the precise extent of the land holdings that comprise the agricultural unit that was in operation on 20 March 2013, in line with paragraph X. Moreover, I would note that the application form states that the appeal site is not currently subject to any agricultural tenancy and no agricultural tenancy agreements were terminated in the year preceding the application.
9. I acknowledge the appellant's argument that there is no limitation to the size of an established agricultural unit set out in the GPDO. Be that as it may, I am required to be satisfied that the site was agricultural land occupied as a unit for the purposes of agriculture on 20 March 2013 and that it remained part of that 'established agricultural unit' on 24 July 2023. Owing to the lack of evidence, it is difficult to conclude that the building was part of that established unit on 24 July 2023.
10. Schedule 2, Part 3, Paragraph W(10) sets out that the local planning authority must, when determining an application, take into account any representations made to them as a result of amongst other things, consultation by way of a site notice or notice served on adjoining occupiers. A number of letters of objection received at the application and those representations received at appeal, including from the Biggin Parish Meeting, call into question the use of the building for agricultural purposes. Letters cite a lack of any agricultural activity around the building since its change in ownership. This adds to my doubts as to whether the appeal site formed part of the established agricultural unit on the required date.

11. Nevertheless, on my site visit I saw that a wire fence defining the edge of the appeal site with the adjacent land had been pulled back and sheep were able to move between the appeal site and the adjacent field. In the appeal building there were several items of agricultural machinery that appear similar to those shown in photographs provided in a letter of support from a local resident in November 2024. However, I am aware that these are snapshots in time and are not clear indicators that the site formed part of an established agricultural unit on these occasions or at the required dates.
12. I recognise that there were some letters of support received as part of the application, however, similarly, these do not provide me with any clear definition of the established agricultural unit, nor do they give me a clear indication that the appeal site forms part of it.
13. The appellant references the 2023 appeal decision which sets out that, on the basis of the evidence before the Inspector at that time, there was an established historical agricultural use of the appeal site and that the building was in use as an agricultural building at the time of the appeal site visit in December 2022. However, the Inspector at that time was assessing the proposal against the earlier iteration of the GPDO which simply required that the building formed part of an established agricultural unit on 20 March 2013. Moreover, I also note the Inspector in the 2021 appeal determined that there was insufficient evidence to conclude that the building was in agricultural use at the time of the application. The comments of the Inspector in the 2023 appeal decision therefore carry limited weight in my assessment as to whether the building formed part of the established agricultural unit on 24 July 2023.
14. Schedule 2, Part 3, Paragraph W(3) of the GPDO sets out that the decision maker may refuse a prior approval application where the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question.
15. For the reasons set out above I have not been provided with sufficient information to enable me to establish that the proposed development would comply with the requirements of paragraph Q1. (a)(i), and I am unable to conclude that the appeal building was part of an established agricultural unit on 24 July 2023.

Conclusion

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

Paul Martinson

INSPECTOR