The Planning Inspectorate

Appeal Decision

Site visit made on 8 July 2019

by C L Humphrey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2019

Appeal Ref: APP/C2708/W/19/3224702
Willowbeck Farm, Wigglesworth, Skipton, North Yorkshire BD23 4RJ

- 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)(England) Order 2015 (as amended).
- The appeal is made by Mrs Sherri Vaux against the decision of Craven District Council.
- The application Ref 2018/20045/AGRRES, dated 21 December 2018, was refused by notice dated 12 February 2019.
- The development proposed is change of use of an agricultural building to form a single dwellinghouse.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) for the change of use of an agricultural building to form a single dwellinghouse at Willowbeck Farm, Wigglesworth, Skipton, North Yorkshire BD23 4RJ in accordance with the terms of the application Ref 2018/20045/AGRRES dated 21 December 2018, and the plans submitted with it.

Application for costs

2. An application for costs was made by Mrs Sherri Vaux against Craven District Council. This application is the subject of a separate Decision.

Background and Main Issue

3. In accordance with Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GPDO), development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a dwellinghouse, together with building operations reasonably necessary to convert the building, is permitted development.

4. The Council considers that the proposal fails to comply with the provisions of GPDO paragraph Q1(a). This provides that such development is not permitted by Class Q if, inter alia, 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.

5. The main issue is therefore whether the proposed development complies with the provisions of Q1(a) of Schedule 2, Part 3, Class Q of the GPDO and, if so, whether or not prior approval should be granted.

Reasons

6. For the purposes of Part 3, "site" is defined in GPDO paragraph X as the building and any land within its curtilage. Paragraph X further sets out that "agricultural building" means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business; and "agricultural use" refers to such uses. The interpretation of "established agricultural unit" is agricultural land occupied as a unit for the purposes of agriculture on or before 20th March 2013 or for 10 years before the date the development begins.

7. Whether or not the site was used solely for an agricultural use as part of an established agricultural unit on or before the relevant date is a question of fact to be determined on the evidence provided.

8. The submitted 1:1250 location plan outlines in red the site, which comprises the land occupied by the appeal building. This building, described in application Ref 5/72/41/H as an agricultural building for mushroom packing and storage, was granted planning permission in January 1996.

9. It appears from the submitted evidence that a mushroom farm operated for several years. However, the Council's officer report dated 13 June 2006 in relation to application Ref 72/2006/6331, which is included at Appendix C of the Council's Statement, states at paragraph 9.3 "There is no evidence of any farming activity on the site at present and it is believed that no mushroom farming has been undertaken since autumn 2004."

10. The appellant's evidence indicates that the appeal building was not in active use between 2012 and 2017. Moreover, at Appendix E of the Council's Statement, an extract from what appears to be a Council officer report in relation to a 2014 application Ref 72/2014/14831 (described in the appeal case officer report planning history as a 'Prior notification for change of use of office to residential purposes'), states at paragraph 1.1 "The site would appear to be unused but includes polytunnels and a blockwork, profiled steel building, the subject of the current application, used for agricultural purposes."

11. Based on the submitted evidence, and my observations on site, the appeal building includes a modest office and staff welfare facilities comprising a kitchen, toilet and shower room in addition to storage and workshop areas. However, I have nothing before me to demonstrate that these elements do not form an intrinsic part of the agricultural use of the established agricultural unit.

12. Whilst the appeal building does not appear to have been in agricultural use on 20th March 2013, or indeed for some time before, I have no evidence that there has been any intervening material change of use.

13. Indeed, the report at Appendix E of the Council's Statement states at paragraph 3.1 "The site has a complex planning history including enforcement investigation that the subject building was been *[sic]* used as a dwelling. The investigation was closed when it was concluded that the building was not being occupied as a dwelling."

14. Moreover, whilst the Council's officer report in respect of the appeal proposal includes an extract from the application form in respect of Ref 72/2014/14831, which apparently stated "the office use has well been established by a number of applications referring to it as an 'office'", I note that paragraph 9.3 of the 2014 officer report in respect of that application concludes "The site was not used as an office under Class B1(a) immediately before 30 May 2013. The LPA consider that the proposal is not permitted development. In the LPA's view the office does not compromise *[sic]* a Class B1(a) 'Planning Unit' in its own right as it forms part of the wider 'Planning Unit' that forms Willowbeck Farm."

15. The Council's officer report and Statement in respect of this appeal refer to other uses including stabling for horses, a ménage *[sic]* and a camping and caravanning site which, it asserts, are evidence that the site is not used solely for an agricultural use as part of an agricultural unit. However, these other uses do not appear to relate to the appeal site and building itself but rather to the land outlined in blue on the submitted location plan.

16. Whether or not the appeal building was constructed in accordance with the plans approved under permission Ref 5/72/41/H, and whether the subsequent installation of new PVC windows, doors and patio doors are lawful, are not matters for me to determine in the context of this appeal which is made under section 78 of the Town and Country Planning Act 1990. It is open to the Council to pursue these matters separately.

17. For the foregoing reasons, on the balance of probabilities and in the absence of any substantive evidence to the contrary, I therefore conclude that, although not in use on 20th March 2013, when it was last in use before that date the appeal building was used solely for an agricultural use as part of an established agricultural unit. Therefore, the proposed development complies with the provisions of Q1(a) of Schedule 2, Part 3, Class Q of the GPDO.

18. The Council has not raised any concerns in relation to all other conditions, limitations or restrictions specified in Class Q as being applicable to the development in question. Based upon the evidence before me, I see no reason to take a different view. Accordingly, I conclude that prior approval should be granted.

Conditions

19. The GPDO requires at Paragraph Q.2(3) that development under Class Q is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date. Moreover, paragraph W(12) of the GPDO states that the development must be carried out in accordance with the details provided in the application; in this instance these are the submitted 1:1250 Location Plan and Drawing No. SkA01.

Conclusion

20. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed, and prior approval should be granted.

CL Humphrey

INSPECTOR