The Planning Inspectorate

Appeal Decision

Site visit made on 25 July 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8th August 2017

Appeal Ref: APP/N2535/W/17/3175554
Barn at Lodge Farm, Fen Lane, Burton, Lincoln LN1 2RD

- 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 (General Permitted Development) (England) Order 2015 (the GPDO).
- The appeal is made by Mr R Needham against the decision of West Lindsey District Council.
- The application Ref 135030, dated 14 September 2016, was refused by notice dated 18 November 2016.
- The development proposed is conversion of barn to dwelling.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or when last in use prior to that date, such that the proposal would constitute permitted development under the GPDO.

Reasons

3. The proposal sought prior approval from the Council for development permitted under Class Q of the GPDO which consists of:

   (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3(dwellinghouses) of the Schedule to the Use Classes Order;

   and (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3(dwellinghouses) of that Schedule.

4. Paragraph Q.1 of the GPDO sets out a number of circumstances where such development is not permitted by Class Q. The Council considers the only circumstance relevant to this proposal to be that where development is not permitted by Class Q if (a) the site was not used solely for an agricultural use as part of an established agricultural unit (i) on 20th March 2013, or (ii) 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 refusal of prior approval relates to this exclusion whereby the Council's decision was that the site was not used solely for an agricultural use as part of an established agricultural unit.

5. Having considered the historical evidence provided, including the 1886 Ordnance Survey extract, I have no reason to doubt that the building for which the residential conversion is sought was built originally as a rural agricultural barn for agricultural purposes, has been in place for a number of centuries and was likely previously used for keeping cattle and storing farm equipment.

6. However, in more recent years and on or before 20 March 2013, the evidence suggests the land holding within which the building is situated has not been used solely for an agricultural use as part of an established agricultural unit. Although the appellant has shown the land has an agricultural holding number and has provided letters from the Rural Payments Agency, there is no evidence of any payment made or to what agricultural activities these were in support of.

7. The planning history showing permissions for stables and loose boxes and the evidence from the Parish Council suggests that, in recent years, the site has been used to keep horses. The appellant's own design and access statement, whilst referring to the site comprising an agricultural smallholding, refers to the running of a commercially sustainable business, including looking after and exercising horses. The horses kept in the surrounding paddocks were evident from my visit, as was the associated stabling and manège area.

8. Section 336 the Town and Country Planning Act 1990 defines agriculture as including '*horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly.'*

9. Even though the Council's report refers to the animals being rarely given supplementary feed and only stabled in extreme weather conditions, the presence of horses on the land will only qualify as an agricultural use of the land if they are kept there as working horses actually used for farming the land or if they are there solely for the purpose of grazing that land, as distinct from their being kept there. In my judgement the area surrounding the barn includes land actively used for the keeping of horses, and that they are not there solely for the purpose of grazing the land. Therefore, to the extent to which any agricultural use was taking place on this land holding, it would have been a mixed use along with the keeping of horses.

10. The appellant started to use the appeal barn for worm farming in 2008 and considers all current forms of advice say that a wormery is a form of agricultural use, confirmed by appeal decisions such as on Green Belt agricultural land in Hertfordshire. The appellant has not specified these exact appeals whereas the Council has cited a number of cases where Inspectors have taken a contrary view over worm keeping being an agricultural use.

11. The Class Q permitted development rights apply to an agricultural building, defined in Part X of the GPDO as meaning a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business. The evidence provided, including the receipts, indicates the wormery to generate a very low income and I am doubtful this amounts to a trade or business. However, were I to accept that this was the case and the

wormery did fall within the definition of agriculture, this would not alter my view that the barn in question does not form part of a site which, due to the keeping of horses, is used solely for an agricultural use as part of an established agricultural unit.

12. I can give little weight to the appellant's concern that the Council's decision was unduly influenced by a discomfort with this form of permitted development right as there is no evidence that this is the case. However, the evidence does persuade me that, due to the keeping of horses and for the reasons set out, the development proposed would not be permitted by Class Q of the GPDO.

Conclusion

13. Having taken into consideration all other matters raised I conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR