



Appeal Decision

Site visit made on 13 December 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2023

Appeal Ref: APP/P1045/W/22/3299235

The 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 (as amended).
 - The appeal is made by Mr McCabe against the decision of Derbyshire Dales District Council.
 - The application Ref 21/01512/PDA, dated 13 December 2021, was refused by notice dated 8 February 2022.
 - The development proposed is the change of use of agricultural building to dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Derbyshire Dales District Council against Mr McCabe. This application is subject of a separate decision.

Procedural Matters

3. The application form did not include a description of the proposed development. Consequently, the description in the banner header above has been taken from the appeal form and the decision notice. I have dealt with the appeal accordingly.

Background and Main Issue

4. Class Q (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (the GPDO) permits the 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. Class Q (b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above.
5. Paragraph Q.1 (a) of the GPDO states that development is not permitted by Class Q if the site was not solely for an agricultural use as part of an established agricultural unit (i) on 20 March 2013, (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, or (iii) in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins.

6. Planning permission¹ was granted at the appeal site on 30 January 2020 for the '*reinstatement of cladding to hay barn, re-routing of farm track and temporary earth bund for duration of the restoration works (part retrospective)*'. Following the completion of the works approved under the planning permission, an application for prior approval² was made under Schedule 2, Part 3, Class Q of the GPDO for the '*change of use from an existing agricultural barn. Building works include all necessary internal works to construct a home, externally the only building works are to add windows and doors*'. This application was refused on 12 March 2021 and subsequently dismissed at appeal³ on 29 July 2021.
7. The Council consider that as the original building was taken back to its skeletal frame and new foundations laid during the completion of the works granted under the planning permission, the development resulted in the construction of a new building. As a result, the Council do not consider that it would comply with criterion of Class Q.1(a) (iii) as the building, which was brought into use after 20 March 2013, has not been in use for a period of at least 10 years before the date development under Class Q begins.
8. Given the above, the main issue is whether the proposal would be permitted development, with particular regard to whether the requirements of paragraph Q.1(a) would be met.

Reasons

9. The appeal site is located within the open countryside and is accessed from Upper Lane via a gated entrance. The site comprises an agricultural building constructed of concrete block work, vertical hung Yorkshire boarding, and profiled metal roofing.
10. For the purposes of Class Q, an 'established agricultural unit' is defined in Schedule 2, Part 3, Paragraph X of the GPDO as being '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'. An 'agricultural building' is defined as 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.
11. There is no dispute between the parties that there is an established historical agricultural use of the appeal site, and that a building on the site has been and continues to be used for agricultural purposes. Based on the information before me, which include photographs and a letter from the previous owner of the land detailing its previous and recent use, and from my own observations on site, I have no reason to disagree.
12. However, the Council consider that given the level of the works carried out following the granting of the planning permission in 2020 the development amounted to the construction of a new building on the site. The appellant contends that, whilst the works undertaken were significant, they do not amount to a new building. This is largely based on the retention of the building's steel frame.

¹ Council Ref: 19/01286/FUL

² Council Ref: 21/00189/PDA

³ APP/P1045/W/21/3271492

13. To support this view, the appellant has provided a letter from a structural surveyor which confirms that the steelwork is the original steel frame and that it forms an integral part of the structure of the building. Following the removal of part of the building's blockwork I was able to view part of the steel frame during my site visit, with those parts visible appearing weathered which further supported the conclusion of the structural surveyor. The Council also agree that the steel frame appears to be from the original building.
14. From the evidence available to me it is readily apparent that there is very little remaining of the original dilapidated building. Whilst I acknowledge that the steelwork is the original steel frame, the works undertaken involved the erection of full height blockwork walls with new footings to all four sides of the building, new roofing, and the addition of timber boarding to parts of the exterior of the new blockwork walls. The totality of these works means that in essence a new building has been constructed.
15. Whether or not the scale of the works goes beyond a repair or upgrade and instead amount to the construction of a new building is a matter of planning judgement with reference to the circumstances of the case. To my mind, the building operations undertaken at the appeal site clearly go beyond what could reasonably be considered a repair or upgrade and have resulted in the construction of a new building. The fact that these works may have been approved under the planning permission from 2020 does not alter my view.
16. I note the appellant's view that the works constitute the re-cladding of an existing building, and that these works could be reversed if so desired. However, for the reasons stated above I find that the works carried out go significantly beyond what could be described as the 're-cladding' of an existing building. Furthermore, the reversal of these works would be extensive and require amongst other things the demolition of walls and removal of foundations. I consider that this only further supports my finding that the works undertaken have resulted in the construction of a new building.
17. I therefore find that the works are so extensive that they amount to a new building. As a result, the development proposed would not comply with criterion of Class Q.1(a) (iii) as the building, which was brought into use after 20 March 2013, has not been in use for a period of at least 10 years before the date development under Class Q begins.

Other Matters

18. Several comments were made by third parties in relation to the application, including a number in support of the proposal. These included that converting the building into a dwelling would be positive and make better use of the structure, and that the work carried out to date had been done to a high standard. The GPDO however grants planning permission within specified parameters, and none of these other points affect whether the appeal proposal is permitted development under the GPDO.

Conclusion

19. For the reasons given above, I conclude that the proposal would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is therefore dismissed.

David Jones

INSPECTOR