
Appeal Decision

Site visit made on 2 May, 2017

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 16th June, 2017

Appeal Ref: APP/K2230/W/17/3166770

Whitehouse Farm, Higham, Rochester, Kent, ME3 7JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by St Johns College c/o Savills against the decision of Gravesham Borough Council.
 - The application Ref: 20160579 dated 6 June, 2016 was refused by notice dated 5 August, 2016.
 - The development proposed is conversion of an agricultural building to residential use and associated building operations.
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Decision

1. The appeal is allowed and planning permission is granted under the provisions of paragraphs Q(a) and Q(b) of Part 3 of Schedule 2 to the Town and Country (General Permitted Development)(England) Order 2015, for conversion of an agricultural building to residential use at Whitehouse Farm, Higham, Rochester, Kent, ME3 7JH in accordance with the terms of the application, Ref: 20160579 dated 6 June, 2016 and the plans submitted with it, subject to the following condition:
 - 1) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority according to the approved timescale.
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Main Issue

2. On the basis of the evidence submitted and the Council's reason for refusal, the main issue is whether the proposal satisfies the requirements of Class Q.1 (a) of Part 3 of Schedule 2, (the GPDO 2015) with particular regard to whether the appeal building can be considered to have or have had agricultural use.

Reasons

Agricultural Use

3. Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling with Class C3 (dwelling/houses) of the Schedule to the Use Classes Order 1987 and any building operations reasonably necessary to convert the building. Paragraph Q.1(a) states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 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.
4. The appeal building is a large, metal-clad shed, divided into two sections, each containing a large extractor unit, and each with large sliding doors, both open at the time I visited. It has an overhanging canopy to the front, and small rear extension housing plant. There is an area of hardstanding to the north with access to the road, and a grassed area to the south. The site directly adjoins an open field and has no boundary fences or walls on three sides.
5. There is no dispute that the building was used in the past to store fruit and vegetables. However, the Council considers that it has since 2007 been used by a neighbour for parking, was not, therefore, last in sole agricultural use on 20 March, 2013 and as a result does not comply with paragraph Q.1(a). The Council also contends that it has been used for domestic storage which also precludes its sole agricultural use.
6. I noted a single car parked outside the building. The appellant has indicated that this parking is as a result of an informal arrangement with a single neighbouring resident intended to deter trespassers and misuse, with no formal tenancy involved, and that any other use of the site for parking is without the permission of the appellant. No convincing evidence has been put before me to the contrary.
7. I noted also a dumped mattress and a small crate containing some roof tiles in the building. The appellant has indicated that the empty racking in one side of the building is industrial in character and consonant with its last use as a spray shed, and given its robust size I see no reason to doubt this. I conclude therefore that the building is not in use for domestic storage at the moment, although informal use, without the permission of the appellant, may have occurred in the past. The indication that there may have been some formal arrangement allowing domestic storage in the past, although provided in good faith by a neighbour, is based on only the suggestion of a third party and I do not therefore consider that it can be relied on.
8. It appears to me that ad hoc parking or even an element of domestic storage might easily take place in a large and weathertight agricultural building which is otherwise empty at the time and is easily accessible. In this case it appears that these activities have occurred on a small-scale, temporary and either an

informal basis or without the consent of the landowner. They have not resulted in any changes that would prevent the agricultural use of the building and do not, to my mind; affect the nature of the building or its last formal use as an agricultural one.

9. While a neighbouring occupier has stated that the building is used for play by his children, as this has not been permitted by the appellant and has not been formalised in any way, I conclude that it too does not alter the nature of the building as a vacant agricultural one.
10. I have taken account of the appeal decision put before me by the Council¹, but the parking and storage use in this case was carried out by the appellant as part of the cycle of agricultural activity, rather than by other parties without the permission of the appellant, and I consider therefore that the circumstances are materially different. The circumstances in the appeal decision put before me by a neighbour² involved domestic storage by the appellant, and I take the same view on this. These decisions do not therefore cause me to alter my conclusions on this case.

Prior Approval

11. Q.2 of the GPDO requires that where development proposed is development under Class Q(a) together with development under Class Q(B), development is permitted subject to the condition that before beginning the development the development must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to a number of matters. The Council has considered these matters and concluded that they would not trigger the requirement for prior approval. Nothing has been put before me to cause me to disagree with these findings.

Other matters

12. A neighbouring third party has suggested that the proposed structural works go beyond what would be reasonably necessary for the building to function as a dwelling/house under Q.1(i) of the GPDO. However, the structural condition survey submitted as part of the application indicates that the foundations and ground floor slab of the building are suitable to carry internal wall and floor loadings and that the building is structurally suitable to be converted in to a residential building. No significant structural works have been proposed, and it appears to me that replacement of the external metal cladding and installation of doors and windows do not conflict with paragraph Q.1(i) of the GPDO.
13. It also appears to me that the operations relating to the insertion of a first floor inside the western half of the barn, rather than being a structural work, would be done to create a desired amount and quality of accommodation. On the basis of the evidence before me, therefore, I conclude that the proposed building operations proposed do not go beyond what would be reasonably necessary for the building to function as a dwelling/house.
14. Schedule 2, Part 3, paragraph X of the GPDO is clear that the curtilage of the proposed residential dwelling should be no greater in extent than the area of the agricultural building and could include land closely associated with and serving the purposes of the agricultural building or an area of land beside or

¹ Ref. APP/D3315/A/14/2226958

² Ref. APP/X1118/W/15/3097751

around the agricultural building. The appeal proposal shows a new curtilage taking in part of the concrete hardstanding and the grassed area immediately around the agricultural building. The Council has not contested this curtilage either on the grounds of its extent or its association with the agricultural use, and I can see no reason to do so. Any subsequent attempts to enlarge the building or curtilage would be subject to appropriate consideration as part of a planning application.

15. No convincing evidence has been put before me to demonstrate that the site is currently or recently occupied under an agricultural tenancy and that it therefore conflicts with Q.1 (e) or (f) of the GPDO 2015.

Conclusion

16. For the reasons given above, therefore, and taking into account all other matters raised, I conclude that the appeal should succeed.

Conditions

17. The Council has suggested securing by condition the investigation of contamination on site and any necessary remediation. The appellant is content with this. I consider such a condition reasonable and necessary in the interests of protecting the living conditions of future occupiers of the building, and have applied it accordingly.

S J Buckingham

INSPECTOR