
Appeal Decision

Site visit made on 28 January 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2019

Appeal Ref: APP/L3625/W/18/3199960

Littleton Manor Farm, Littleton Lane, Reigate, Surrey RH2 8LB

- 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 Matt Tarrant against the decision of Reigate & Banstead Borough Council.
 - The application Ref 17/02584/PAP3Q, dated 2 November 2017, was refused by notice dated 27 December 2017.
 - The development proposed is described as 'change of use from agricultural building to dwellings (C3 use class). Agricultural barn/holding'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development does not specifically refer to building operations but having considered the submissions it is clear that the proposal would involve building operations and that the Council has assessed them. I have therefore considered the appeal accordingly.
3. The description of development refers to *dwellings* but the plans show only a single *dwelling* as being proposed. I have considered the latter following the receipt of clarification from the appellant and Council. The Council's decision notice does not confirm that its prior approval was required but I have taken this as being implied, as the notice has refused prior approval.

Main Issues

4. The main issues in this appeal flow from the Council's reason for refusal, which has two components, and relates to whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO¹.
5. In particular:
 - Whether the works proposed would fall within the scope of those permitted by Class Q of the GPDO; and
 - Whether the appeal building is part of an established agricultural unit.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Reasons

Whether the works proposed would fall within the scope of Class Q

6. Class Q of the GDPO permits some building works to facilitate a change of use of an agricultural building to a dwelling, such as the installation of windows, doors, roofs or exterior walls. The Planning Practice Guide² provides further guidance on this and states that it is assumed that the agricultural building is capable of functioning as a dwelling and it is only where the existing building is already suitable for conversion to residential use that it would be considered to have the permitted development right conveyed by Class Q.
7. Accordingly, a structure does not benefit from Class Q permitted development rights if the works required for it to function as a dwelling go beyond a conversion and amount to a rebuild. Rebuilding in this context is not limited to the erection of an entirely new building. Instead, works of rebuilding can include works that would go a long way beyond what might reasonably be considered a conversion. In effect, if the use of the building as a dwelling would require complete or substantial rebuilding then the development cannot amount to a conversion and cannot benefit from the rights in Class Q. Thus, the permitted development right in Class Q of the GDPO to undertake building works has an inherent limitation.
8. The appeal building is a detached structure comprised of three bays. It is constructed from a concrete skeletal frame. It is unclear how this is fixed to the ground as details have not been presented and the floor was obscured by dirt and sand. It is open to all four sides although single skin blockwork on two sides provides some enclosure to the lower part of the building. There is some corrugated cladding at the apex of the gable ends which appears in a poor state of repair. Neither the block work nor the cladding appears to have any structural purpose. The roof is constructed from light weight sheeting attached to purlins which in turn sit on the concrete frame. In light of the forgoing, the building is rather simple and utilitarian in its construction and this affords it an insubstantial and skeletal appearance. Therefore it is currently some way off being able to function as a dwelling.
9. It seems to me that the building would require substantial, cumulative works, some of a structural nature, in order for it to function as a dwelling given its current state and its original method of construction. A structural survey has not been submitted explaining what works would be required and what aspects of the original building could be retained. Thus, I cannot conclude with certainty that the works that would be necessary to facilitate the use of the building as a dwelling would amount to a conversion.
10. Notwithstanding the above, the indicative schedule of proposed works submitted by the appellant does seem to suggest that substantial and extensive alterations and additions would be necessary. It explains that the existing cladding and roof would be replaced and that internal block walls and or a steel/timber frame would be constructed. In order to strengthen the building a series of new piled foundations, pre cast ground beams and a concrete slab would be constructed and this would support a portal frame. Windows and doors would also need to be inserted. The details also suggest it would be necessary to construct plinth walls to support parts of the building.

² Paragraph: 105 Reference ID: 13-105-20180615

11. Some of the works outlined are authorised by Class Q and they would be reasonably necessary for the structure to function as a dwelling. However, when taken together, they would leave little of the original structure, which is already insubstantial. Overall, the works would subsume what was left of the original building. I accept that extensive works can fall within the scope of Class Q but in this instance they would go beyond what could reasonably be described as a conversion. Instead, the works would be so extensive as to amount to a substantial rebuilding³ of the pre-existing structure. Works of substantial rebuilding would fall outside those permitted by Class Q of the GPDO. I therefore conclude that the works necessary to create a dwelling from the structure on site would not fall within the scope of that permissible under Class Q of the GPDO.

Whether the site was used as part of an established agricultural unit

12. Paragraph Q.1 of the GPDO 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 the 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.
13. The appeal building is an open sided structure that appears to have been designed for agricultural purposes. During my site visit I observed that the barn currently houses a small tractor, a few bales of hay and other equipment that could be regarded as being agricultural in nature. The Council's Case Officer also observed hay bales and agricultural type equipment during their site visit. That Officer also describes the building as an 'agricultural barn' in their report. The Council have not alleged that the appeal building is not an 'agricultural building' as defined in Paragraph X of the GPDO⁴.
14. The appellant has therefore interpreted the above as acknowledgement from the Council that the appeal building is in an agricultural use and was on the 20 March 2013. This seems a reasonable interpretation in the absence of anything from the Council contradicting it. As such, the matter in dispute is whether the appeal building is part of an established agricultural unit.
15. An 'established agricultural unit' is defined in Paragraph X of the GPDO as agricultural land occupied as a unit for the purposes of agriculture. Whether or not this is the case is a matter of fact and degree based on the particular merits of the case and the evidence presented.
16. The Council is of the view that Littleton Manor Farm is solely used as an equestrian centre and therefore the agricultural use of the building has not been undertaken in connection with an agricultural unit. The Council points to the extensive nature of the centre and the presence of horse paddocks around the appeal building as evidence supporting its proposition. However, the appellant suggests that in addition to the equestrian centre there is a distinct agricultural enterprise operating from Littleton Manor Farm and the appeal building is a component of this, being used to store hay cropped from the surrounding paddocks or to keep livestock when not out grazing.

³ The works would therefore go beyond the maintenance, improvement or other alteration of a building. The works would also materially affect the external appearance of the building, which would ultimately have the appearance of a dwelling if they were implemented.

⁴ For example, the Council have not taken issue with the absence of evidence demonstrating that a trade or business is being operated, such as business accounts or receipts.

17. Unhelpfully, a plan has not been provided identifying those areas in distinct equestrian uses and those in agriculture but I observed that Littleton Manor Farm is not entirely used as an equestrian centre, with some areas grazed by sheep and others left as pasture. It is therefore plausible that some of this land has been cropped for hay or grazed over time. Accordingly, the presence of fenced paddocks in the immediate vicinity of the barn, with horses present within, does not demonstrate the barn is not part of an established agricultural holding formed from other land at Littleton Manor Farm unrelated to the equestrian centre.
18. The Burdle⁵ judgement confirms that it is possible for a unit, such as Littleton Manor Farm, to have a number of separate and distinct areas used for unrelated purposes. With this in mind the appellant has explained that the barn is away from and used separately to, the equestrian centre. It is used in conjunction with a number of the paddocks that are left to establish a hay crop and others that are grazed by horses that are turned out onto the land. Case law has been provided to demonstrate that the latter can amount to an agricultural activity. The appellant also points to the Council's historic description of Littleton Manor Farm, in connection with application P/10/00592/F, as comprising predominantly permanent pasture used to make hay and graze livestock. This description pre dates 20 March 2013. The Council has not provided anything of substance to dispute these points.
19. Thus, on the balance of probabilities I am satisfied that the appeal building is in an agricultural use and was on the 20 March 2013. The evidence also seems to suggest that there is an established agricultural unit at Littleton Manor Farm and that the appeal building is used as part of this and was on the 20 March 2013. Accordingly, the proposal would not offend the relevant limitation set out in Paragraph Q.1 (a) of the GPDO.

Conclusion

20. On the balance of probabilities the evidence submitted is sufficient to demonstrate that the appeal building is in an agricultural use as part of an established agricultural unit and was on the 20 March 2013. However, I have also found that the works proposed would amount to substantial rebuilding. As a consequence of the latter, Class Q of the GPDO does not apply⁶. Accordingly, the proposal is development for which planning permission is required. An application for planning permission would be a matter for the Local Planning Authority to consider in the first instance. Thus, for the reasons given above I conclude that the appeal should fail.

Graham Chamberlain
INSPECTOR

⁵ Burdle v Secretary of State for the Environment (1972)

⁶ Given this finding, it is unnecessary for me to consider the merits of the prior approval application against those matters set out in Paragraph Q.2 of Class Q.