



Appeal Decision

Site visit made on 18 November 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/R0335/W/19/3235887

Grooms Lodge, Scotlands Farm, Forest Road, Newell Green, Warfield, Bracknell RG42 6AJ

- 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 R of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Raymond Hipkin against the decision of Bracknell Forest Borough Council.
 - The application Ref 19/00420/PAF, dated 3 May 2019, was refused by notice dated 28 June 2019.
 - The development proposed is "Benefits to Alpaca business, presentations, training, overnight accommodation. No affects or impacts on residential amenities, flood zone 2".
-

Decision

1. The appeal is dismissed.

Procedural matters

2. This appeal relates to Schedule 2, Part 3, Class R of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Class R permits 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 flexible use falling within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage and distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the schedule of the Use Classes Order¹. This class does not allow for any associated operational development, which would therefore require express planning permission.
3. Planning Practice Guidance advises that the schedule grants planning permission, subject to the size thresholds, limitations and conditions set out at Class R. Schedule 2, Part 3 Paragraph W(3) of the GPDO, enables a local planning authority to refuse an application for prior approval where the proposal does not comply with any conditions, limitations or restrictions specific in this Part and being applicable to the development in question.
4. Paragraph R.1(a) of the Order sets out situations whereby development would not be permitted, the one referred to the Council being that the building was not being used for agricultural use on 3 July 2012. There is no dispute between parties that the proposal meets the other exclusions of Schedule 2, Part 3, Class R, paragraphs R.1 (b) to (e) of the GPDO. It is further contested by the

¹ Town and Country Planning (Use Classes) Order 1987

Council that the proposal includes a residential use that would fall outside the scope of the permitted development right.

5. Furthermore, having a floor-space of less than 150sqm, the proposal must satisfy provision R.3-(1)(a)(i) to (iii), this includes notifying the local planning authority when the use would begin, the nature of the use and a plan showing the site. This provision is considered satisfied by the main parties, I have no evidence before me to contest this.

Main Issues

6. Consequently, the main issues are:

- whether the proposal would be permitted development (PD) by the provisions of Schedule 2, Part 3, Class R.1(a) of the GPDO, and
- if deemed to be PD whether the proposal would satisfy the conditions, limitations and restrictions of Class R.

Reasons

Permitted development

7. The requirement, as set out in the Procedural Matters above, is for the building to have been in agricultural use on 3 July 2012. The extent of the building in question was clear at my site visit and all parts including the interior were able to be visited. The building is within a farm holding. It is part of a range of single-storey buildings with a pitched roof. The part subject to this appeal appeared to be in the process of being refurbished. The rooms include decorated plasterboard walls and domestic doors. Three rooms appeared to include connected washing facilities and one included a fitted kitchen.
8. The appellant has provided three declarations. These are from Mr Dean Hodder², Ms Lisa Carol Rose Batup³ and from Raymond George Hipkin and Susan Rosemary Hipkin⁴. The first identifies that Mr Hodder has worked at the farm since 2004 and loaded hay into the barn the subject of the appeal. The second declaration identifies that Ms Batup has worked at the farm since 1997 and states that the barns were used for hay storage, feed and bedding. The third declaration states that the building has never been used for horses and only for feed, bedding and hay storage. I also note that hay making features on the submitted financial records, although this is not specifically tied to the building in discussion. The declarations carry significant weight due to their legal standing and the penalties available against those making a false declaration.
9. However, the Council has provided evidence to the contrary. This illustrates that the building was used in 2009 as stabling for an equestrian use. This is therefore not an agricultural use as defined by s336 of the 1990 Act⁵. A planning application was submitted in 2009⁶ to change the barn and stables into 7 units for visitor accommodation. The plans annotated the space as stabling⁷. The Council consider this illustrates that the building was either in

² Declaration from Mr Dean Hodder dated 20 August 2019

³ Declaration from Lisa Carol Rose Batup dated 20 August 2019

⁴ Declaration from Raymond George Hipkin and Susan Rosemary Hipkin dated 20 August 2019

⁵ Town and Country Planning Act 1990

⁶ Planning Application Reference: 09/00670/FUL

⁷ Council's Statement of Case, appendix 2

use or was previously in use as stables. Furthermore, the associated financial appraisal identified the building as being vacant stables. Moreover, the associated bat survey, undertaken in 2007, included a photograph that illustrated that the building was laid out as stabling⁸. Furthermore, a pre-application enquiry, made to the Council in 2012, referred to the building as including stabling. Accordingly, the evidence presented by the Council is compelling despite the weight I have afforded to the appellant's declarations.

10. The Council's records are relevant as these provide a useful insight into the historical use of the building. The use may have ceased before 2009 but this is different to the appellant's original position that the building was never used for horses. In any event, the Council's evidence does not support the appellant's more recent contention that stabling use ceased a long time before 2009.
11. Therefore, although the statutory declarations are of significant weight, the evidence between main parties is contradictory. I am subsequently unconvinced that the building has most recently been in agricultural use. On the balance of probabilities on the information available, it is concluded that the building, the subject of prior approval, was not in agricultural use on 3 July 2012. It is subsequently concluded that the application is for development that would not be permitted under Class R of the Order.

Conditions, limitations and restrictions

12. As the proposed change of use would not be development permitted under Class R of the GPDO, there is no need for me to consider whether or not any conditions, limitations or restrictions of Class R prevent prior approval being given as this would not alter the outcome of the appeal.

Other Matters

13. The provisions of Schedule 2, Part 3, Class R of the GPDO do not require decisions to be determined in accordance with the development plan. This is because the principle of development is established through the grant of permission by the Order. I have therefore had regard to the policies of the development plan and the National Planning Policy Framework (Framework) only in so far as where they are material considerations. Therefore, although the Framework seeks to re-use previously developed land and vacant buildings, this objective is of limited weight in consideration the GPDO.

Conclusion

14. For the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR

⁸ Council's Statement of Case- appendix 4