The Planning Inspectorate

Appeal Decision

Site visit made on 20 February 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 April 2020

Appeal Ref: APP/N1730/W/19/3241451
Barn, Gazings Farm, Redlands Lane, Crondall, Farnham, Surrey GU10 5AR

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr Victor Bernard Smythe against the decision of Hart District Council.
- The application Ref 19/01844/PRIOR, dated 13 August 2019, was refused by notice dated 4 October 2019.
- The development proposed is described as 'Proposed change of use to dwelling: Prior Notification: Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended by the 2018 amendment order)'.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was submitted by Mr Victor Bernard Smythe. However, the applicant for the planning application was Mr Vistor Bernard Smythe. The appellant has confirmed in writing that the spelling of the name 'Vistor' was a typographical error and the above parties are the same person. I have dealt with the appeal on that basis. In the interests of accuracy, I have used the appellant's name from the appeal form within the banner heading.

3. The application for prior approval was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO'). Class Q permits the change of use of agricultural buildings to dwellings, with associated operational development, subject to the criteria set out within the legislation. In this instance, it is proposed to convert a former agricultural building into one dwellinghouse.

4. In determining the application, the Council concluded that the proposal did not comply with Criterion Q.1(a)(ii) and Q.1(i) of Paragraph Q.1 of the GPDO.

Main Issues

5. The main issues are (i) whether the change of use would be permitted development having regard to Class Q, Paragraph Q.1, Criterion Q.1(a)(ii) of the GPDO; and (ii) if so, whether the scope of the proposed building operations are reasonably necessary for the conversion of the building to residential use having regard to Paragraph Q.1, Criterion Q.1(i) of the GPDO.

Reasons

Permitted development

6. The appeal property is one of several buildings located within Gazings Farm. It is proposed to convert the existing building into one dwellinghouse.

7. Criterion Q.1(a) of Paragraph Q.1 of the GPDO states that 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.

8. The parties agree that the building was not in an agricultural use as part of an established agricultural unit on 20 March 2013 and the agricultural use ceased around 1990. Prior to this date, the appellant states that the building and the wider agricultural unit were used as a cattle farm for beef production. This has not been disputed by the Council.

9. The appellant contends that when the building was last in use, it was used solely for an agricultural use as part of an established agricultural unit. Therefore, he claims that the proposal would be permitted development having regard to Class Q, Paragraph Q.1, Criterion Q.1(a)(ii) of the GPDO.

10. The appeal is supported by a statutory declaration dated October 2018 from Victor Bernard Smythe, the appellant, which states that Crondall Golf Course Limited (now known as Crondall Properties Limited) acquired Gazings Farm, including its barns and dwellinghouse on 8 May 1990 and since that time the appeal building has not been used for any business purpose other than agriculture.

11. However, the Council have drawn my attention to a statutory declaration from the appellant, dated April 2001, which was submitted in support of a previous Lawful Development Certificate application[1], which related to the continued occupancy of the dwelling at Gazings Farm in breach of an agricultural occupancy condition. The statutory declaration states that since 1992 the dwellinghouse with the adjoining land has been let out to several different tenants all of whose occupations/professions were outside of agriculture. Nevertheless, the statutory declaration does not include a plan to define the 'adjoining land', so it is ambiguous as to whether or not it includes the appeal building.

12. As part of the Lawful Development Certificate application public consultation was undertaken by the Council. The Council have drawn my attention to two responses which were submitted by local residents. The first letter, which was submitted by the owner of Camelot, Redlands Lane, explains that since the previous owner moved away in around 1988, horses were kept on the site and had been there ever since. The second letter, which was submitted by the occupier of 1 Bushylease Cottages, Redlands Lane, explains that since the late 1980's, Gazings Farm has been intermittently let by the golf course, but the land has never been used for farming.

13. The appellant argues that very little weight can be afforded to the letters submitted by neighbouring residents as they do not explicitly refer to the

[1] Council Ref: 01/00811/FUL

appeal building. Despite not explicitly referring to the appeal site, the letters provide a contextual overview of the activities that were being undertaken at Gazings Farm when the public consultation was undertaken in 2001, which includes the use of the land by horses.

14. The Council have provided an extract from a design and access statement ('DAS') which was submitted in support of a planning application made by the appellant for the erection of a five-bedroom dwelling at the appeal site. The document dated October 2017 states that the appeal building is '*currently used as storage*'. The document includes photographs of the appeal building, including one image which shows the front part of the building being used to store hay bales and domestic items (white plastic patio furniture). In addition, the DAS states that another building at Gazings Farm (known as 'Baby Calf House'), which is located near to the appeal building, is *'currently used for stables'.*

15. The presence of hay bales within the appeal building and the use of the Baby Calf House as stables, supports the previous observations of the neighbouring occupiers from 2001, which stated that horses were on the site.

16. In addition to the above, the Council explain that the rearward part of the building is currently in use for domestic storage. On my site visit, I observed that the rearward part of the building was being used to store domestic items including a fridge/freezer, lawn mower, paint tins and furniture. However, the front part of the building was no longer being used for the storage of hay bales and domestic items, as shown by the photograph within the DAS. Whilst the key consideration in determining this appeal relates to the last use of the building (i.e. before March 2013) and not the current use of the building, my site observations did at least support the Council's view that the building has and is being used for a storage type use.

17. Notwithstanding the appellant's statutory declaration from October 2018, the evidence before me, which includes (i) a statutory declaration from April 2001 that refers to the use of the adjoining land by several different tenants all of whose occupations/professions were outside of agriculture; (ii) the public consultation letters from 2001, which refer to equestrian based uses being undertaken at the site for a period of time from 1988 to 2001; and (iii) the DAS from 2017, which states that the building is used for 'storage purposes', in addition to the current use of the rearward part of the building for storage use, casts sufficient doubt that when the building was last in use, it was used solely for an agricultural use as part of an established agricultural unit.

18. The appellant contends that the domestic storage use is *de minimis* and therefore a material change of use has not occurred. In addition, the appellant argues that '*it is inconceivable that the GPDO would intend for weight to be attached to unlawful uses*'. However, I note that Criterion Q.1(a)(ii) of Paragraph Q.1 of the GPDO refers to when the building was '*last in use*' and not the building's last lawful use. Even if I were to accept the appellant's view that the GPDO should be interpreted in such a way that it relates to the last 'lawful' use, the evidence before me is not sufficiently unambiguous for me to conclude, on the balance of probabilities, that when the building was last in use, it was used solely for an agricultural use as part of an established agricultural unit.

19. For the reasons given above, I am unable to conclude that on the balance of probabilities when the building was last in use, it was used solely for an agricultural use as part of an established agricultural unit. Consequently, the change of use would not be permitted development because Criterion Q.1(a)(ii) of Paragraph Q.1 of the GPDO would not be met.

Building operations

20. As I have found that there is insufficient information provided to demonstrate that the proposal would be development permitted by the GPDO, the detailed matters, including whether the scope of the proposed building operations are reasonably necessary for the conversion of the building to residential use having regard to Paragraph Q.1, Criterion Q.1(i) of the GPDO, do not therefore fall to be considered as part of the determination of this appeal.

Other Matters

21. The appellant states that the land adjoining the appeal building is used solely for grazing and not for any other purpose. However, no substantive details have been provided as to the extent or type of the grazing. As such, this is not a determinative point in this appeal.

Conclusion

22. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR