



Appeal Decision

Site visit made on 6 October 2020

by Martin Small BA (Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th October 2020

Appeal Ref: APP/R3650/W/20/3252610

Barn at Cobden Farm, Holt Pound, Farnham, Surrey, GU10 4JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 Mark Millar against the decision of Waverley Borough Council.
 - The application Ref PRA/2020/0002, dated 18 January 2020, was refused by notice dated 12 March 2020.
 - The development proposed is conversion of existing barn to residential unit, including services and sewage treatment plant.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site location plan submitted with the application shows the proposed access to the appeal site from the highway via the existing access to the property within the red line. However, with the appeal the appellant has suggested the provision of an alternative access via Holt Pound Lane to address the potential concerns of the Highway Authority. It is not the purpose of the appeal process to evolve a scheme and I have therefore determined this appeal on the basis of the plans originally submitted, on which the Highway Authority and public were consulted and the Council based its decision.

Main Issues

3. The main issues are i) whether the proposed development would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) and ii) if so, whether the proposal would be acceptable in respect of the conditions of paragraph Q2 (1) (a) - (f) of the said Order.

Reasons

Permitted development

4. The appeal site is located in the corner of a field with a concreted area accessed from the highway via a long track and accommodating a building of concrete block and corrugated sheeting. There is also a small caravan, a container and two small corrugated iron buildings. The proposal is to convert the block building to a dwelling with the replacement of the external walls and roof.

5. Class Q, Part 3, Schedule 2 of the GPDO sets out that 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 use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order and building operations reasonably necessary to convert such a building to use falling within Class C3 of that Schedule is permitted development.
6. However, 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 (i) on 20 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, 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.
7. The interpretation of 'agricultural building' and 'agricultural use' is set out in paragraph X of Part 3; 'agricultural building means 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'. To qualify as permitted development, it is therefore necessary that a building was used for the purposes of agricultural trade or business on the relevant date.
8. The appellant contends that the land at the appeal site has been used from 2012 for the grazing of sheep and for the harvesting of hay for winter feed by the occupier of the neighbouring property, Yew Tree Cottage, Mr James. This is confirmed by statements from Mr James and the appellant's brother, Mr Allan, submitted with the appeal.
9. However, these statements are not evidence of a trade or business being undertaken on the property; they merely refer to an 'agreement' or 'arrangement' with Mr James to use the land as grazing and for hay. I have no details of whether this is a business arrangement or simply one of mutual convenience and benefit. No other evidence of a trade or business such as accounts has been provided. In making this appeal the onus of proof rests with the appellant as regards demonstrating that the restrictions of paragraph Q.1 are satisfied.
10. Therefore, based on the lack of evidence that the appeal site was used solely for an agricultural use as defined in the GPDO on 20 March 2013, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Prior approval

11. Given the conclusion that the proposed change of use would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not the proposal would be acceptable in respect of the conditions of paragraph Q2 (1) (a) – (f) as it would not alter the outcome of this appeal.

Other Matters

European Designated Sites

12. The appeal site is within the 5 km buffer zones of the Thames Basin Heaths Special Protection Area and the Thursley, Hankley and Frensham Commons

(Wealden Heaths Phase 1) Special Protection Area. It is also within 5 km of the Thursley, Ash, Pirbright and Chobham Special Area of Conservation. The qualifying features of these European Designated Sites are breeding populations of ground nesting birds; Nightjar, Woodlark and Dartford Warbler and the heathland on which they rely. These birds and their habitat are threatened by recreational disturbance by visitors and traffic-related air pollution.

13. Planning permission is granted by Article 3(1) of the GPDO for the classes of development described as permitted development in Schedule 2 subject to the provisions of the Order and Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (general development orders). Regulation 75 provides that it is a condition of any planning permission granted by a general development order made on or after 30 November 2017 that development which (a) is likely to have a significant effect on a European site or a European offshore marine site, alone or in combination with other plans or projects, and (b) is not directly connected with or necessary to the management of the site must not be begun until the developer has received written notification of the approval of the LPA under Regulation 77.
14. Therefore, had I found that that prior approval should be granted for the proposed development, an application under Regulations 75 and 77 would have been necessary before the development was begun. However, this matter is not before me and has not been determinative in this appeal.

Other considerations

15. I note the appellant's dissatisfaction with the handling of his application by the Council. However, this is not determinative as to whether or not the proposed development is permitted development.

Conclusion

16. For the reasons given above, and having had regard to the other matters raised, the appeal is dismissed.

Martin Small

INSPECTOR