



Appeal Decision

Site Visit made on 10 August 2021

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 16th August 2021

Appeal Ref: APP/Z3825/W/20/3260007

Clemsfold Farm, Guildford Road, Clemsfold RH12 3PW

- 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 as amended.
 - The appeal is made by Mr Ralph Tombs against the decision of Horsham District Council.
 - The application Ref DC/20/0641, dated 27 March 2020, was refused by notice dated 22 May 2020.
 - The development proposed, as described on the application form, is prior approval for change of use of an agricultural building to a flexible commercial use (B8 Storage and Distribution).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended (the GPDO) planning permission is granted for the change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible commercial use subject to limitations and conditions. The planning decision notice describes the proposal as change of use of agricultural buildings to a flexible use within Shops (Class A1), Financial and Professional Services (Class A2), Restaurants and Cafes (Class A3), Business (Class B1), Storage or Distribution (Class B8), Hotels (Class C1) or Assembly and Leisure (Class D2).¹ It is clear from the application form that the initial use is intended to be within Class B8 and the Planning Statement adds that this is intended to be storage of classic cars within Class B8. I have considered the appeal in this way.
3. In September 2020 Classes A1, A2, A3, B1, D1 and D2 were replaced with Class E in Part A of Schedule 2². The period of transitional arrangements for the new Regulations has now expired. The Council's Statement of Case was submitted after the Regulations were implemented so I consider no prejudice arises from me considering the appeal without further recourse to the Parties.

Background and Main Issue

4. The floor area of the building is some 198.7 square metres. Development permitted by Class R is subject to the conditions in Paragraph R.3. Paragraph R.3(1)(b) requires that, where the floorspace exceeds 150 square metres, the

¹ As defined in the Town and Country Planning (Use Classes) Order 1987 (as amended)

² Town and Country Planning (Use Classes) (Amendment)(England) Regulations 2020

developer must apply to the local planning authority (in this case the Council) for a determination as to whether prior approval is required as to certain specified impacts before beginning the development. The Council has identified noise impacts as a matter requiring prior approval, and has refused to grant such approval.

5. The main issue in this appeal is whether the proposed development would benefit from permitted development rights under Schedule 2, Part 3, Class R of the GPDO.

Reasons

6. The appeal site comprises a Dutch Barn (the Barn) in an ungated field with an area to one side identified as curtilage. It is behind the residential properties Nos 1 and 2 Clemsfold Cottages. The Barn is some 7.5m by 26.5m and about 8.4m high. It is situated a few metres from the hedge along the shared boundary with Nos 1 and 2 with the longer side facing those properties. It is mainly open sided with a curved roof supported by a metal frame and upright columns with corrugated sheeting to the upper parts³. Access to the Barn is from the busy A281 via a narrow, partially surfaced track that is also a footpath. The access also serves Nos 1 and 2 and Clemsfold Farm and buildings on the other side of the access which are awaiting conversion to residential use.
7. Little information has been provided about the way in which the proposed use would take place. It seems to me that noise could arise from a B8 use, including storage of classic cars, in the form of vehicles to and from the Barn; manoeuvring within the site; and revving of engines as well as from associated human activity. Given the size of the Barn, its openness, and as it is to the rear of the properties in a currently quiet location, I consider the proposed development could be harmful to the living conditions of occupiers of Nos 1 and 2 as well as that of future occupiers of the proposed residential units opposite.
8. I have taken account of the fact that the appellant could use about two thirds of the Barn for storage use under paragraph R.3(1)(a) without the need for noise to be taken into account. Be that as it may, the legislation clearly intends noise impacts must be addressed for larger premises before permitted development rights to apply. Similarly, whether or not there are other commercial premises on the A281; noise from vehicles on that road; and noise likely to arise from agricultural activity (the Barn is currently used for storing hay); are all matters which could be properly addressed through an appropriate assessment of noise impacts. I conclude there is insufficient information for me properly assess the noise impacts. Accordingly I cannot establish that the proposed development complies with the relevant conditions, limitations or restrictions in respect of the noise impacts of the development
9. An application as to whether prior approval is required for development which exceeds the limits specified in the GPDO may be refused where it is found that the developer has provided insufficient information to determine whether the proposed development complies with the conditions, limitations or restrictions that are applicable to such permitted development

³ Infilling of three elevations was refused planning permission Appeal Ref APP/Z3825/W/17/3189444

10. As I have found that the developer has provided insufficient information to establish whether the proposed development complies with the conditions, limitations or restrictions that are applicable to such permitted development. Paragraph R.3(1)(b)(ii) is not met and so the proposal does not benefit from permitted development rights. On this basis it is unnecessary and inappropriate for me to proceed to further consider whether prior approval should be granted.

Other Matters

11. Third Parties have raised concerns about commercial traffic using the access track, which could have implications for the safety of users of the footpath, and the lack of hard standing associated with the Barn. However, given my conclusions on the main issue I do not need to consider these matters further.

Conclusion

12. For the reasons given above, I conclude that the appeal should be dismissed.

S Harley

INSPECTOR