



Appeal Decision

Site Visit made on 29 June 2021

by David Cliff BA Hons MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th September 2021

Appeal Ref: APP/Y3615/W/20/3265437

Burpham Court Farm, Clay Lane, Jacobs Well, Guildford GU4 7NA

- 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 Rockwood Homes Ltd against the decision of Guildford Borough Council.
 - The application Ref 20/W/00060, dated 27 April 2020, was refused by notice dated 22 June 2020. The development proposed is described in the application form as 'conversion of existing agricultural buildings (referred to as buildings 1 to 4) to form 4 no. residential dwellings'.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO') for the conversion of existing agricultural buildings to form four dwellinghouses (use class C3) and associated building operations at Burpham Court Farm, Clay Lane, Jacobs Well, GU4 7NA in accordance with the terms of the application Ref 20/W/00060, dated 27 April 2020, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The revised description of the proposal used in the decision above reflects that agreed by the appellant and the Council as set out in the appeal form. This includes 'associated building operations'.
3. A revised National Planning Policy Framework ('the Framework') was published on 20 July 2021. I have sought comments from the main parties on the implications of this for the determination of the appeal and have taken account of any responses in my decision.

Main Issues

4. The main issue is whether the proposals constitute permitted development under the GPDO, taking account of the relevant limitations and conditions, having particular regard to:
 - (i) the extent of the proposed works and
 - (ii) flood risk.

Reasons

The extent of the proposed works

5. Class Q(b) of the GPDO allows building operations reasonably necessary to convert a building to a dwellinghouse.
6. The four main buildings under consideration are fully enclosed and of a permanent and substantial form. Taking account of my observations at my site visit and the applicant's supporting material, the former agricultural buildings appear to be in generally reasonable condition. The details provided confirm that no new major structural elements would be required with the works generally amounting to maintenance and conversion works.
7. In the case of each of the buildings, a significant part of the proposed works would be internal and appear to be capable of taking place without damaging the main structural integrity of the buildings. The Government's Planning Practice Guidance¹ (PPG) states that internal works are not generally development and that for the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of mezzanine or upper floors within the overall residential floorspace permitted, or internal walls, which are not prohibited by Class Q.
8. The appellant has confirmed in its statement that the existing concrete slabs can be retained. The insertion of new raised floors, built above the existing concrete slabs, would be internal alterations that would not alter the external appearance of the building. They would not therefore amount to development that would be prohibited by Class Q. Furthermore, the insertion of a new independent structure in building 3 is primarily proposed in order to the support a new mezzanine floor, rather than to support the existing structure.
9. It appears that it would not be necessary to substantially replace entire roofs and walls. A substantial part of the works that affect the exterior of the building involve the replacement or repair of localised parts of the buildings and the insertion of new windows and doors. Other aspects of works such as the replacement of purlins and timbers would be likely to be limited in their nature. Taking account of the nature of the proposed works in this instance, there is no indication or likelihood that the buildings are not structurally strong enough to take the loading of the proposed residential use. As the required works are relatively modest in this regard, I am satisfied that a decision can be made as set out below without the need for a further detailed structural report for this scheme.
10. There is no clear evidence that the existing foundations would be unable to support the proposed conversion works and subsequent residential use. Checks upon the existing foundations are routine ones that would generally take place as part of a development project of this nature. As a matter of fact and degree, taking account of the substantial form of the existing buildings, it is not likely that any work required to the foundations would be such to amount to 'development'. Should such works be required that go beyond what is currently expected, then that would be a matter for future consideration outside of the scope of this appeal.

¹ Paragraph: 105 Reference ID: 13-105-20180615

11. Overall, the proposed conversion works would be reasonably necessary to convert the buildings to dwellinghouses in each case. The internal works would not significantly alter the main structure of the buildings and the external works would be fairly limited in their nature and within the permitted criteria of Class Q(b), being to the extent reasonably necessary for each of the buildings to function as a dwellinghouse.
12. The proposals would not, whether considered individually or cumulatively, amount to a rebuild of the existing buildings that goes beyond what is reasonably necessary for conversion to residential use. Furthermore, the works would not amount to either a complete or substantial re-building of the pre-existing structures, or in effect, the creation of a new building or buildings.
13. The proposed building operations would be reasonably necessary to convert the buildings to dwellinghouses and would fall within the scope of works allowed under Class Q (b).

Flood risk

14. Three of the proposed buildings to be converted would be located in Flood Zone 3(b) with the remaining building in Flood Zone 3(a). The proposed change of use would introduce a 'more vulnerable' residential use for the buildings in comparison to the previous 'less vulnerable use'. In such cases, the PPG² states that the applicant will need to show that future users of the development would not be placed in danger from flood hazards throughout its lifetime and that, depending on the risk, mitigation measures may be needed.
15. As part of the appellant's Flood-Risk Assessment (FRA), it is proposed that the lowest floor level of each unit shall be raised to ensure that in the event of a 1 in 100 year flood (including an additional allowance for climate change) the floor levels would be above the level of flood water. This would significantly reduce the risk of flooding within each dwelling to an acceptable level and the implementation of the floor level details can be secured as a condition of the approval. This approach is supported by the Environment Agency (EA) and would ensure that the inside of the building would be most likely to be safe during flooding events as well as limiting any damage that might have otherwise taken place during a flood event. The use of such a condition would be enforceable and there is no evidence to suggest that it would not be a reasonable condition or fail the general Framework condition tests in any other respect.
16. Drawing upon the Officer's report and in the absence of any subsequent planning appeal statement, the Council's main objection appears to relate to there not being a satisfactory access/egress route from each dwelling and the lack of sufficient details of an evacuation plan, along with the enforceability of the conditions suggested by the EA.
17. The EA's second suggested condition restricts the raising of ground level. Whilst engineering operations would require a separate grant of permission, there is some room for ambiguity as to whether the particular types of level raises might or might not amount to an engineering operation. The condition is therefore necessary in this case to safeguard the site and surroundings from an

² Paragraph: 048 Reference ID: 7-048-20140306

increased risk of flooding. This would appear to be enforceable, and no clear reasoning has been provided by the Council why this would not be so.

18. The FRA demonstrates that there would be a distance of approximately 140m from the centre of the proposed development to the site entrance located within Flood Zone 2 and a further 25m to Flood Zone 1. The maximum depth of the water on the access route would be 35cm based on the peak event. The 35cm depth would not be across the whole of the access route and the Council has indicated, as part of its recent permission for the conversion of building 1, that it would still allow most vehicles to pass through it, as well as generally allowing access on foot. However, this may still lead to some difficulty and risk regarding access/egress, particularly for those with accessibility issues. A Flood Risk Management Plan (FRMP) is proposed by the appellant including provision for advance flood warnings and an evacuation trigger point for occupants. This would allow for occupants to safely leave the site before peak flooding occurs. The implementation of the FRMP could be secured by condition and would ensure that any residual flood risks could be safely managed.
19. As referred to above, the Council has recently granted planning permission for the conversion of building 1 into a residential dwelling. This building is located the furthest of the appeal buildings from Flood Zone 1. As such the practicality of access and egress from other buildings would be no worse than that for building 1 as recently permitted by the Council. Whilst this building is located in Flood Zone 3a rather than 3b the appellant has demonstrated that, through raised ground floors, buildings 2, 3 and 4 would be likely to be safe from flooding of the habitable areas of the buildings whilst also providing a safe refuge during any significant flooding.
20. I am satisfied that, subject to the imposition of the conditions discussed above the proposals would be appropriately flood resilient and would not be likely to result in unacceptable flooding risks at the site or elsewhere.

Other matters

21. The site is located within 5km of the Thames Basin Heath Special Protection Area. Article 3(1) of the GPDO grants planning permission for permitted development subject to Regulations 75-78 of the Conservation of Habitats and Species Regulations 2017. Although not a matter for consideration in this appeal, permitted development cannot be lawfully begun until the developer has made a Regulation 77 application and the local planning authority is satisfied that the development would not have an adverse effect on the integrity of the protected habitat.

Conditions

22. Paragraph Q.2(3) of the GPDO requires that development shall be completed within a period of three years. Paragraph 12(a) of Section W of the GPDO requires that the development shall be carried out in accordance with the approved details. For clarity, I have also inserted an approved plans condition, so it is clear what has been permitted.
23. Conditions 2, 3 and 4 are necessary in order to safeguard future occupants from flooding, to provide for the implementation of a Flood Risk Management Plan including safe access/egress, and to safeguard against the increased risk of flooding elsewhere. Condition 5 is required in order to prevent risks to

human health and the environment from any contamination. Conditions 6 and 7 are necessary to promote and facilitate sustainable transport options and reduce transport related carbon emissions.

24. A condition requiring noise insulation is not necessary as there is no evidence that the proposed dwellings would be subject to any significant noise risk.
25. The site would utilise an existing access to Clay Lane and part of the driveway already used by residential traffic to other adjacent dwellings. I am not aware of any particular highway safety risk posed by the access arrangements on the submitted drawings. A condition requiring further details of access and visibility splays is therefore not necessary in this instance. The scheme drawings already show parking arrangements to which no objection has been raised and is it not therefore necessary to seek further details of parking arrangements by condition.
26. A condition requiring the closure of existing accesses is not necessary given that the main access to Clay Lane would still be utilised and there is no indication why such a condition is necessary in respect of transport or highway impacts. Taking account of the available space adjacent to the buildings for parking/storage etc and given that the nature of the construction works is not likely to be of a significant magnitude, it is not necessary to require the approval of a Construction Transport Management Plan.

Conclusion

27. The proposal satisfies the requirements of the GPDO for change of use from agricultural buildings to dwellinghouses, as set out under Schedule 2, Part 3, Class Q. Therefore, the appeal is allowed and prior approval is granted.

David Cliff

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: P551, P558, P559, P560, P561 and P562.
2. The development shall be carried out in accordance with the submitted flood risk assessment (ref 7547 gtaCiviis Consulting Engineers Stage 2 Flood Risk Assessment dated April 2020) including the following mitigation measure:
 - Finished floor levels shall be set no lower than 27.558m AOD metres above Ordnance Datum.

The mitigation measures shall be fully implemented prior to occupation and subsequently be retained and maintained throughout the lifetime of the development.

3. (i) The approved dwellings shall not be occupied until the measures set out in the Flood Risk Management Plan (Annexe to the submitted flood risk assessment (ref 7547 gtaCiviis Consulting Engineers Stage 2 Flood Risk Assessment dated April 2020) are undertaken in full.

(ii) The occupation of the dwellings shall thereafter be undertaken in accordance with the measures in the Plan.
4. There shall be no raising of ground levels throughout the lifetime of the development.
5. (i) Prior to the commencement of the development hereby permitted, a detailed Phase One survey, including historic Investigation and detail on ground conditions shall be submitted to the Local Planning Authority (LPA) to ascertain whether the site supports any soil or water contamination. If the LPA consider that further investigation of the site is necessary, a detailed site investigation must be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology. The investigation shall include relevant subsurface, soil, gas and groundwater sampling together with the results of analysis and a risk assessment of the impact to receptors. Any remediation required shall be fully detailed to restore the site to a standard suitable use, including works to address any unsuspected contamination.

(ii) Any remediation scheme submitted in accordance with part (i) above shall be carried out as detailed in the applicant's submission. Documentary proof shall be provided to the LPA together with a quality assurance certificate to show that the works have been carried out in full accordance with the approved remediation strategy. Details of any post remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste material has been removed from the site before the development hereby permitted is occupied by any person not directly involved in constructing the development.
6. The development hereby approved shall not be occupied until the approved dwellings are provided with fast charge sockets in accordance with a scheme which shall have been previously submitted to and approved in writing by the local planning authority and thereafter retained and maintained in accordance with the approved details.

7. The development hereby approved shall not be occupied until cycle parking has been provided in accordance with a scheme which shall have been submitted to and approved in writing by the local planning authority. The cycle parking provision shall thereafter be retained and maintained in accordance with the approved details.