



Appeal Decision

Site visit made on 21 September 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2022

Appeal Ref: APP/P3610/W/21/3286098

North Looe, Reigate Road, Ewell KT17 3DL

- 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 Mr & Mrs D & P McCleave against the decision of Epsom and Ewell Borough Council.
 - The application Ref 21/00635/PDCOU, dated 5 April 2021, was refused by notice dated 25 May 2021.
 - The development proposed is described as a change of use of agricultural buildings to residential (Use Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form did not include a description of development. I have therefore used the description from the appeal form and the decision notice in the banner heading above.

Background and Main Issues

3. Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building, to a use falling within Class C3 (dwellinghouses) (Paragraph Q(a)). Additionally, Class Q permits building operations reasonably necessary to convert the building to a Class C3 use (Paragraph Q(b)). This is also subject to the prior approval by the local planning authority on specific matters (at paragraph Q.2(1)) which includes flooding risks Q.2(1)(d).
4. Based on the evidence submitted and the Council's reasons for refusal, the main issues in this case are, whether the building is, or was, solely in agricultural use; the extent of the proposed works; and flood risk.

Reasons

Agricultural Use

5. To benefit from the permitted development rights under Class Q.1(a) the appeal site must have been used solely for an agricultural use as part of an established agricultural unit, either on 20 March 2013 or 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.
6. The appellant states the buildings have been used for agricultural uses and they draw my attention to the appearance of the buildings and installation of items such as feed troughs and cattle sheds. Aerial photos have been provided and the appellant suggests that stock proof fencing was entered onto the Land Registry.
 7. The Appellant, however, states that the exact date of last use is not known, and the buildings were 'in part' used for storing agricultural vehicles 'about ten years ago'. Interested parties also challenge the uses which have occurred within the buildings as well as the chronology of uses.
 8. There is therefore some ambiguity surrounding the timeline and uses of the buildings. The statements made by the appellant are not corroborated by any further evidence other than the appellant's written assertion. Additionally, if the buildings were used *in part* for agricultural vehicles, there is no substantive evidence before me to set out the other uses elsewhere within these buildings.
 9. Taking all matters into consideration, based upon what has been presented to me, it has not been conclusively shown that the buildings were solely in agricultural use on either the 20 March 2013 or when last used before that date. Consequently, the appeal proposal fails to demonstrate compliance with Class Q.1(a) of Part 3, Schedule 2 of the GPDO.

Extent of the Proposed Works

10. The existing buildings are partly open and in a poor state of repair. The development as proposed shows these openings would be infilled with cladding, however, there is no evidence before me about the structural integrity of the existing buildings.
11. Paragraph Q.1(i) specifies that the installation or replacement of windows, doors, roofs, exterior walls, amongst other things, may be reasonably necessary for the building to function as a dwellinghouse. However, the GPDO does not provide a definition for 'reasonably necessary'.
12. The Planning Practice Guidance (the PPG) at paragraph 105 (Reference ID: 13-105-20180615), states that the permitted development right under Class Q assumes that the agricultural building would be capable of functioning as a dwelling. It is not the intention to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Only where the building is suitable for conversion to residential use would it be considered to have the permitted development right.
13. Interested parties refer to the case of *Hibbitt v. SSCLG* [2016] EWHC 2853 (the Hibbitt case). This judgement found that an agricultural building must be capable of conversion to residential use without operations that would amount to complete or substantial re-building of the original building. Whether or not a development goes beyond the scope of conversion is a matter of fact and degree and requires an element of judgement.
14. In the Hibbitt case the agricultural building had open sides and would have required substantial rebuilding of the original building, particularly the enclosure of open sections. This is similar to the current appeal before me.

Furthermore, there is limited evidence to show what existing elements of the current appeal buildings would be capable of being retained. Even if significant sections of the existing buildings could be retained, similar to the Hibbit case, large sections of openings would still need to be constructed to enclose the buildings.

15. Consequently, I find the extent of the proposed works would not, as a matter of fact and degree, meet the description of a conversion. The building operations would be substantial and do not fall within the scope of paragraph Q1(i) as reasonably necessary. Accordingly, I conclude that the development would exceed the limitations set out in the relevant sections of the GPDO in respect to this main issue.

Flood Risk

16. The appeal site is within Flood Zone 1, i.e. at low probability of flooding, and there is no indication that it is within a critical drainage area. In addition, no substantive evidence is before me to suggest that suitable drainage provision could not be provided on site. In this context there is nothing to indicate that suitable drainage provision could not be secured via an appropriately worded condition.
17. Therefore, whilst I conclude that the proposal would not entail unacceptable effects in regard to Q.2(1)(d) of Schedule 2, Part 3, Class Q of the Order, this is a neutral finding rather than one that weighs positively in favour of allowing the appeal.

Other Matters

18. The appellant suggests that the appeal proposal is in a sustainable location well connected to local services. Even if this was the case, Class Q of the GPDO does not permit an assessment thereof or to specifically weigh potential benefits.
19. While examples of barn conversions from elsewhere have been provided, I have not been furnished with evidence of the planning history of these sites or under which legislation or policies these were considered. This therefore has no bearing on my decision.

Conclusion

20. For the reasons given above and having regard to all evidence before me, I conclude that the appeal should be dismissed.

N Praine

INSPECTOR