



Appeal Decision

Site visit made on 17 January 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 FEBRUARY 2023

Appeal Ref: APP/A3655/W/22/3291274

Land to Westside, Chobham Road GU21 2HZ

- 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 Maurice Black Jnr. against the decision of Woking Borough Council.
 - The application Ref PLAN/2021/1277, dated 23 November 2021, was refused by notice dated 14 January 2022.
 - The development proposed is described as 'Prior Approval under Part 3, Class Q of the Town and County Planning (General Permitted Development) (England) Order 2015 for the conversion of Agricultural Building to create 1No 2 bedroom dwelling. (b) a change of use together with reasonably necessary building operations.'
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would be permitted development in terms of the requirements and limitations under Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), having regard to external dimensions of the existing building, agricultural use, and building operations reasonably necessary for the building to function as a dwellinghouse.

Reasons

External Dimensions

3. Development is not permitted under Class Q where it would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.
4. The building comprises a principal enclosed section and a subservient section with a lower roof. The subservient section is set back a small distance from the front elevation that faces along the driveway. This setback is visible in the images included in the submitted structural report but is not shown on the submitted plans. These show an unbroken building line across the front elevation of the proposed dwelling. In this regard the external dimensions of the dwelling would be beyond those of the existing building.
5. The appellant asserts that the building was built specifically in its current form and that it was constructed as an all-in-one barn structure. Also, the

subservient and main parts of the building are connected structurally and are one and the same in both appearance and function.

6. Be this as it may, for the reasons set out above the submitted plans show that this development would result in the external dimensions of the appeal building extending beyond the external dimensions of this existing building along the proposed front elevation. Consequently, I find that the proposal would not satisfy the limitations set out in Paragraph Q.1 (h) of the GPDO in respect to this matter, and therefore it would not be permitted development.

Agricultural Use

7. The appeal site is served by a long vehicular access onto the Chobham Road. While the building is close to this road at its eastern boundary, at all other aspects it is surrounded by fields. The fields to the west of the appeal building are within the ownership of the appellant.
8. The GDPO 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 on stated dates and periods, and this includes at Paragraph Q.1.a (i) on 20th March 2013.
9. The Council contends that the appeal site would not satisfy the above requirement of the GPDO for a number of reasons. These include the building subject to this appeal having the appearance of a three-bay stable, the surrounding fields being used to keep horses, and the conflicting information supplied by the appellant in respect to a tenancy agreement.
10. I observed that the appeal building has stable style doors. However, I also saw that the building has a large opening on the front elevation which aligns with the driveway, and with this feature, the structure has the appearance of a modestly sized barn. The principal section of the building also has a single internal space, that could accommodate agricultural equipment and machinery.
11. The definition of agriculture, as set out in planning legislation¹ includes, amongst other things, the breeding and keeping of livestock and the use of land as grazing land. Grazing land as an agricultural use may include the use of land for grazing horses. However, the Courts have held that 'the breeding and keeping of livestock' as an agricultural use does not include the breeding and keeping of horses, where the 'keeping of horses' involves activities other than putting them out to graze.² Although now replaced by the National Planning Policy Framework, the extract from PPG7, that the Council has drawn to my attention, generally reflects this definition.
12. The appellant, in respect to this proposal, has clarified that whereas there is currently no agricultural tenant at the appeal site, there is in respect to the adjacent fields. A declaration from the current tenant of these adjacent fields, states that there is a commercial agreement in place with the appellant and, consistent with the information on the application form, this does not include the use of the appeal building. The declaration goes on to clarify that horses are on this grass for purposes of grazing, they are not stabled at the property and no other equine activities are carried out on the area subject to the

¹ Ref: Section 336, paragraph (1) of the Town and Country Planning Act 1990 (as amended)

² Ref: Belmont Farm v MHLG [1962]

tenancy agreement. It also states that the tenant does not rent the barn that is subject of this appeal.

13. I saw that the adjacent fields in question are divided into small paddocks, and I note the Council's reference to a Dictionary definition in respect to this matter. However, it seems to me that livestock other than horses could be kept in a paddock. In any event, even if the paddocks are limited to horses, the Council has not presented substantive evidence that leads me to conclude that the paddocks in question are used for anything more than allowing a horse to graze. During my site visit, I did not find any visible signs in these paddocks to suggest that horses are being kept for recreational purposes, such as a manege or other items such as jumps. Also, if this was found not to be the case, I find no compelling evidence before me that the appeal building is linked to the keeping of horses or substantive evidence that would undermine the appellant's assertion in respect to the appeal site being in a sole agricultural use.
14. The Council has raised concerns about the reliability of information provided by the appellant in this case. However, the appellant has indicated on the application form that the site subject of this appeal is not occupied under any agricultural tenancy agreement, and I find nothing before me which would contradict this. Furthermore, while there may be discrepancies in respect to the length of the tenancy agreement affecting the adjacent land the evidence indicates that this has been in place since 2012. In any event this land does not form part of the appeal site. Moreover, the Council has not presented compelling evidence that the appeal site or the adjacent land has been used for anything other than for agricultural use on the dates and periods required by the GPDO in respect to this matter.
15. In the absence of evidence to demonstrate otherwise, I find the proposal would satisfy the requirements of Paragraph Q.1 (a) of Part 3, Schedule 2 of the GPDO with regards agricultural use.

Building Operations

16. The Council highlights that the building operations proposed for the subservient portion of the appeal building would not constitute conversion of the building. In particular, it highlights that this part of the building, in addition to having an open side on the rear elevation, has a different roof height and form to the main building, with open elements between the top of the walls and the roof sheeting. The sheeting also has a different materiality from the roof on the principal part of the building.
17. The Structural Report submitted with the appeal states that the construction of the appeal building comprises timber framing, external timber wall panels and a timber roof structure, with inner blockwork, and is in a good condition and is structurally sound. The report concludes that it would be feasible to convert this building to a dwelling house without wholesale reconstruction of the walls, roof and ground floor slab. It also states that the walls and roof of the original barn building may need to be upgraded to provide a thermally efficient and watertight enclosure.
18. The GDPO does not permit development under Class Q that would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other

services, to the extent reasonably necessary for the building to function as a dwellinghouse.

19. Planning Practice Guidance advises the permitted development right assumes that the agricultural building is capable of functioning as a dwelling and that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use.
20. I saw on the site visit that the appeal building is enclosed by external walls on the majority of the structure, with the exception of doors, and the relatively small open portion on the rear elevation. In respect to the openness between the wall and roof on the subservient section of the building, I observed that this amounts to small gaps between the roof rafters and the roof plane.
21. The submitted plans show that the proposal would result in the installation of a glazing panel in the existing open portion on the rear elevation. Although the structure requires work to make it watertight, and this is likely to involve a replacement roof, the plans show that the proposed roof form on the subservient section of the building would remain similar to the existing roof. Also, the proposed installation of windows and doors would be limited to existing openings on the building.
22. The Structural Report states that the rear roof canopy and supports are in a delapidated condition and will require replacement. However, the proposed plans show that this substantially open existing structure would be retained as an open feature and would not form part of the internal living space in the residential unit.
23. The Council has not provided substantive evidence that challenges the conclusions of the Structural Report. Also, the proposed building operations outlined above fall within the scope of operations listed in Class Q.1 (i) in so much as they would be limited to installation and replacement of windows and the roof. Notwithstanding my findings in respect to external dimensions set out above, replacement of exterior walls would also fall within this scope. Given these factors, the building operations proposed in this case appear reasonably necessary to make the building weatherproof and suitable for human habitation.
24. Given the factors described above, the proposal would not involve the rebuild of a skeletal structure, and the plans show that although it would result in replacement and installation of features at the appeal building, these operations would not amount to a substantial rebuilding of a pre-existing structure. Therefore, as a matter of fact and degree, I find that the appeal building is capable of conversion to the residential use without operations that would amount to a substantial rebuilding or creation of a new building. In this respect this proposal is not directly comparable with the scheme on which the *Hibbit* judgment is based. That case has not altered my findings for this reason.
25. In light of the evidence presented on this matter, I am content that the structural integrity of the building is such that the proposed building operations would not be beyond that which is reasonably necessary for the building to function as a dwellinghouse, having regard to Schedule 2, Part 3, Class Q.1(i) of the GPDO.

Other Matters

26. The appeal site falls within the "Zone of Influence" for the Thames Basin Heaths Special Protection Area. However, as I am dismissing the proposal on different grounds there is no need to consider this matter further in this case.
27. I note that this is a second proposal that has been refused approval and that the Council has not raised concerns in respect to curtilage in this case. However, I find that this proposal would not satisfy the limitations set out in Schedule 2, Part 3, Class Q.1 (h) of the GPDO, as it would result in the external dimensions of the building extending beyond the external dimensions of the existing building. Accordingly, this proposal would not be permitted development for the purposes of Class Q and therefore it is not necessary to consider matters relating to Prior Approval in this case.

Conclusion

28. For the reasons given above I conclude that the appeal is dismissed.

A J Sutton

INSPECTOR