



Appeal Decision

Site visit made on 30 May 2023

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 June 2023

Appeal Ref: APP/A3655/W/23/3317786

Teague Farm, Searchlight Fields, Deep Pool Lane Chobham, Woking GU24 8AS

- 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 (GDPO).
- The appeal is made by Mr Patrick Barber against the decision of Woking Borough Council.
- The application Ref, PLAN/2022/0717 dated, 20 July 2022 was refused by notice dated 13 September 2022.
- The development proposed is prior approval for a proposed change of an agricultural building to one dwelling (Use Class 3) and associated operational development under Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development Order 2015 (as amended)).

Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity and certainty, I have used the description of development given on the Council's Decision Notice.

Main Issues

3. The main issues in this appeal are:
 - whether or not the proposed change of use constitutes permitted development pursuant to Class Q of Part 3 of Schedule 2 to the GPDO; and if so,
 - whether the proposal would be in a practical and desirable location for a residential dwelling.

Reasons

Permitted development

4. The appeal site is located at the end of a track where an enclosure of stable-style buildings can be seen, including the single-storey appeal structure which is flanked by paddock-type fields.

5. To benefit from the permitted development rights under Class Q Part 3 of Schedule 2 of the GPDO regard must be given, amongst other things, as to whether a building was solely in agricultural use on 20 March 2023 or not. The Council concluded that the proposed development for one residential dwelling would meet prior approval requirements, subject to conditions, other than the requirement for the existing building to have been in agricultural use on the prescribed date.
6. The appellant has submitted signed affidavits from persons and/or businesses who state they witnessed agricultural use of the appeal site. This may well have been the case, including the keeping and transportation of livestock. However, while I give this some weight in the planning judgement, without relevant documentation such as invoices or similar evidence from the previous or existing owner, on whom the onus lies to provide such evidence, I cannot be certain that agricultural use was the sole and only use of the site on the required date of 20 March 2013.
7. Indeed, notwithstanding the small-scale headcount of existing livestock such as goats, pigs, and some chickens, at my site visit I noticed that the site is structured as a stable-type area and is surrounded by equestrian type facilities and paddocks. Moreover, in my view, the planning history clearly indicates that the building has been identified and used for stables and storage. As such, I conclude on balance that the appeal site is likely to have had mixed usage over a period of many years.
8. Consequently, based upon what has been presented to me, I am not satisfied that there is conclusive evidence that the building was in sole agricultural use on 20 March 2013. Accordingly, the appeal proposal fails to demonstrate compliance with Class Q Part 3, Schedule 2 of the GPDO. As such, it does not constitute permitted development.

Practical and desirable location

9. Prior approval has a 56-day determination period. As the Council concedes that it cannot conclusively prove whether the notice was issued before the required period had expired, from the evidence before me it is likely that the 56 days had expired before the refusal was issued. If a local authority fails to issue a decision within this period planning permission is deemed as granted.
10. However, while the appellant has brought to my attention similar schemes¹ in support of his case, where prior approval is deemed to be or expressly granted, the development subsequently undertaken is only lawful if it is carried out in accordance with the submitted plans and it is in fact permitted development.
11. Therefore, while I noticed at my site visit that the appeal site is relatively easy to access from the improved track in a private motor vehicle, as I have found above that the proposal would not fully meet the requirements of Class Q Part 3, Schedule 2 of the GPDO, this matter is not determinative.

¹ Keenan v Woking BC & SSCLG (2017), APP/H1840/W/20/3260367, and Murrell v Secretary of State (2010)

Other Matters

12. I note other prior approval applications and appeal cases² on sites nearby. However, I have limited evidence before me related to the circumstances or the context of these schemes. Indeed, these proposals have been considered on their own planning merits as I have done here.
13. The appeal site is located in the Thames Basin Heaths Special Protection Area (SPA) and SAC. As such, ordinarily a competent authority such as myself would potentially need to carry out an 'Appropriate Assessment'. I also note that the appellant wishes to submit a 'Unilateral Undertaking' in respect of a SAMMS payment to address matters of mitigation in the SPA and SAC. However, as I have found against the appellant on the main issues, and therefore prior approval is to be refused, these matters need not be considered any further in this case.

Conclusions

14. For the above reasons, I conclude the proposal would not be permitted development under the terms of Class Q of the GDPO and would require the express grant of planning permission rather than consent via the prior approval process. Therefore, the appeal is dismissed.

J E JOLLY

INSPECTOR

² APP/A3655/W/22/3291274 and PLAN/2023/0258