



Appeal Decision

Site visit made on 4 February 2025

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2025

Appeal Ref: APP/C3620/W/24/3347432

Woodlands Farm, Burnt Oak Lane, Newdigate, Surrey RH5 5BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 KBS Property Development Ltd against the decision of Mole Valley District Council.
- The application Ref is MO/2024/0302/PNQ.
- The development proposed was described in the application form as: "Conversion of existing buildings to provide 5 dwellings. The creation of new openings to provide adequate natural light to all rooms of the dwellings houses."

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by KBS Property Development Ltd against Mole Valley District Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have also dealt with another appeal¹ on this site. That appeal is the subject of a separate decision.
4. The site address in the decision notice and banner heading above differs to that contained in the application form. As the appellant refers to "Woodlands Farm" in its statement of case, I have favoured the use of the decision notice site address.
5. Subsequent to the Council refusing Prior Approval, the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) was amended on 21 May 2024. However, its transitional arrangements are such that for the purposes of Class Q, I must still assess the appeal proposal against the Order that was in force at the time that the application for prior approval was made, which was the 01 August 2020 version of the Order.

Main Issues

6. The main issues are:
 - whether the buildings subject of the proposal are in use as agricultural buildings, or whether they were solely used for an agricultural use as part of an established agricultural unit on 20th March 2013; and,

¹ APP/C3620/W/24/3345918

- whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), having particular regard to whether the extent of the works proposed would consist of building operations that are reasonably necessary for the buildings to function as dwellinghouses.

Reasons

Agricultural use

7. The appeal site comprises a range of buildings grouped at the northern end of the site known as Woodlands Farm, fronting Burnt Oak Lane. The buildings are sited around a hardstanding area running across the northern site section. The larger southern section of the site, beyond the application red line, contains a long grassed field enclosed by trees, hedgerow and fencing.
8. The Council identifies the appeal site as agricultural land, but does not consider the appeal buildings to form part of an established agricultural unit for the purposes of Part 3 of the GPDO. During my site visit, I noted some sheep within the southern end of the field of the appeal site. Whilst some nearby interested parties have disputed the precise nature and intensity of use of this field as purported by the appellant, I have no reason to dispute that this field is not in agricultural use. An 'established agricultural unit' is defined in Part 3, paragraph X of the GPDO as 'agricultural land occupied as a unit for the purposes of agriculture'. This field can therefore be considered to form an established agricultural unit.
9. However, the Council and nearby interested parties refer to the wider site being used for storage of building materials, which I saw evidence of during my site visit. Buildings H and J (as indicated on the submitted block plan), sited between the buildings proposed for residential use, both contained building materials at the time of my visit, but would be demolished to facilitate the proposal.
10. Building C contains a mobile home along the eastern site boundary, and is also proposed to be demolished. Another mobile home was present on site immediately south of Buildings E-G and is not included in the block plan. A neighbour representation refers to two caravans towed onto the site some weeks after the appellant's purchase, and alleges that they have been continuously occupied by tenants ever since. I was unable to gain access to the mobile homes on site and their use was therefore unclear. Neither mobile home forms part of the appeal proposal, but their agricultural purpose is unclear. Their presence casts further doubt as to whether the northern section of the appeal site is in agricultural use as part of an established agricultural unit.
11. There are further buildings to the west of the red line site towards the dwelling of Mon Idee, including a double garage and open-sided buildings. A neighbour representation has claimed that the garage (Building M) is rented for vehicular storage, although I did not gain access to this building. Three open sided buildings (L, N and O) included some storage of building materials. Although these buildings do not form part of the proposed residential use, they mostly do not appear to be in active agricultural use as part of an established agricultural unit. The southernmost building, annotated as Building K, which is within the field boundary not included on the block plan, appears to be in agricultural use in connection with the field.

12. The appellant contends that the key date for assessing agricultural use of the site is 20th March 2013, as required by criterion Q.1. (a)(i) to Part 3 of the GPDO. Two letters from a nearby farm and from a local resident have been provided to seek to demonstrate such an agricultural use. One letter refers to use of the site for cattle grazing and storage of associated equipment between the late 1990's up to 2016. The other letter states that the site was once a very productive pig farm and subsequently used to rear beef. In more recent years, it has been used for storage of agricultural machinery and tractors. An annual crop of silage was taken for cattle feed as well as grazing, which the letter author purports to have done since 2012.
13. Some of the neighbouring representations have disputed some of the contents of these letters. One neighbour questions the use of the buildings for agricultural storage. Another neighbour indicates that since they moved to the area in 2012, the land was never used for agricultural purposes. Many other points of dispute however question the purported nature and intensity of agricultural use rather than the existence of an agricultural use in itself.
14. The planning history of the appeal site indicates that permission was granted in 1998² for alterations to an existing workshop. The appellant refers to this workshop as agricultural, but this use is not referred to in the application description. Although the appeal site is currently named Woodlands Farm, this does not in itself prove an agricultural use.
15. Although the Council has not provided its own evidence or records to dispute the appellant's case, the onus is on the appellant to provide sufficient information to demonstrate that the proposal complies with the relevant provisions of the GPDO. Beyond the brief contents of the appellant's abovementioned letters, no further evidence has been provided such as photographs or itemised bills or other such correspondence. As such, there remains some doubt as to whether the buildings forming the appeal proposal were in agricultural use on 20th March 2013.
16. In any event, from what I could see on site, a significant proportion of the buildings forming the appeal proposal also contained various building materials, in particular Buildings A, B, and D, and they did not appear to me to be in any active agricultural use. An open pile of materials and other detritus was also present west of Building G. The extent of overall building material storage suggests that a material change of use from agriculture has already occurred. I am therefore not satisfied that the buildings forming the appeal proposal and their adjacent land benefit from permitted development rights under Part 3, Class Q of the GPDO.
17. There is no further relevant planning history beyond 1998 until 2022, when a full application³ for five dwellings following demolition of existing outbuildings in the appeal site was refused by the Council, and then dismissed on appeal⁴ in August 2023. I note that in the context of the National Planning Policy Framework's definition of "previously developed land", the Council identified the site as agricultural land, and the Inspector for that appeal found no reason to disagree. I am not however aware of the specific site conditions at the time of determination, and the evidence considered in that appeal is also not before me. I must determine the current appeal based on its current site circumstances and the submitted evidence.

²Council Ref: MO/98/0364

³ Council Ref: MO/2022/0772

⁴ APP/C3620/W/22/3309219

18. In light of all the above, it has not been demonstrated that the buildings forming the appeal proposal are currently in agricultural use as part of an established agricultural unit, or were solely used for an agricultural use as part of an established agricultural unit on 20th March 2013. I therefore cannot find that the scheme complies with paragraph Q.1(a) of the GPDO. Accordingly, the proposal does not benefit from the permitted development rights under Schedule 2, Part 3, Class Q of the GPDO.

Building operations

19. A previous prior notification⁵ for the change of use of agricultural buildings within the appeal site to 5 No. dwellings (Use Class C3) was refused for the same reasons as the application subject to this appeal.
20. The GDPO sets out at paragraph Q.1.(i) that any building operations including the installation or replacement of window, doors, roofs, or exterior walls, amongst other things, should be to the extent reasonably necessary for the building to function as a dwellinghouse. The Planning Practice Guidance (PPG)⁶ advises that the Class Q permitted development right assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted.
21. An updated structural statement is provided with the appeal. The only amendment to the previous version is an additional concluding point stating that the conversion of the buildings will not require any new foundations. The GPDO 2015 however makes no distinction between structural and non-structural works, and it places no restriction on whether works are structural or not. That being said, the provision of new foundations or concrete slabs are not works listed under Class Q1. (i) (i), and would therefore not be permitted development under this Class.
22. The above PPG further clarifies 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. It is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right. Case law⁷ has also held that the building must be capable of conversion to residential use without operations amounting to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building
23. The description of proposed works in the application form includes new roofs, windows, doors and exterior. The submitted plans do not clarify what roofs, walls or other building features would be removed or retained.
24. The structural statement advises that the main floors and walls will require insulation to the current regulations and can be done internally with timber frame and plasterboard. Existing concrete floors would have a damp proof membrane installed over and either insulation and screed or insulation and a floating chipboard floor. There is also reference to insulated ceiling which can be done without affecting the current roof structure or covering. The report also states however that

⁵ Council Ref: MO/2023/1680

⁶ 'When is permission required?' Paragraph 105 reference ID: 13-105-20180615 Revision date: 15/06/2018

⁷ Hibbitt v SCLG [2016] EWHC 2853

in order to improve the appearance, some timber cladding may be proposed to the external walls along with replacement of the current corrugated tin roof with slate roof tiles/insulated sheets. This report therefore does not specify which parts of the existing structures are to be retained or replaced.

25. Building A is a long timber-clad steel framed structure, partially open on one side and with a shallow roof pitch containing corrugated cement sheets. I found its soil and aggregate floor to be uneven and broken up. This floor appears unsuitable for residential use and the structural statement sets out that in the case of such soil/gravel floors, a new internal concrete slab would be cast. I also noted some open gaps between floor level and the base of the wooden timber cladding, and that some of the vertical internal wall joists were bowed. The submitted evidence does not however clarify how in such circumstances the existing walls and roof could of Building A could be retained whilst such a new floor is constructed.
26. Building B is slightly smaller and contains monopitch roofs with corrugated sheeting and a mixture of brickwork, blockwork and timber sheeted walls, with an open eastern end supported by brick columns. Whilst it contains a concrete floor along the open section, the proposed plans indicate that the brick columns would be removed to facilitate the dwelling conversion, along with an internal block wall separating the open section from the enclosed garage-style section. This raises doubt as to whether the corrugated roof above could be retained thereafter, especially given the presence of the timber sheeted wall section that also appears to require removal, and given that the brick section further west would be demolished to provide external parking space.
27. Building D contains a mixture of block and brick walls, with a partially open southern elevation also supported by brick pillars. The submitted plans suggest that at least some of the brick pillars would have to be removed to facilitate the proposed windows and doors. I also saw that its concrete floor is uneven and significantly cracked. It therefore appears that the proposed conversion of this building would require a new concrete slab or foundations, which raises doubt as to whether the existing walls and roof could be retained to facilitate these works.
28. Building E comprises a smaller building with block walls and corrugated monopitch roof, with a concrete floor. Building F is smaller again and timber clad, attached to Building E and containing glazed double doors and what appear to be clay roof tiles. I was unable to access Building F but from what I can see, it would appear possible to reuse both these buildings as a residential dwelling as proposed without substantial rebuilding.
29. However, based on the submitted evidence and my site observations, it has not been demonstrated that Buildings A-D are suitable for conversion in their current form. The works would likely require substantial replacement of exterior walls, roofs as well as installation of some new floors, windows, and doors. Cumulatively, these works would amount to substantial re-building of existing structures.
30. I therefore conclude that it has not been sufficiently demonstrated that the extent of the works proposed would accord with the provisions of Schedule 2, Part 3, Class Q of the GPDO.

Other Matter

31. The appellant has provided plans and supporting documents for a scheme recently granted prior approval⁸ by the Council nearby in Newdigate for change of use of an agricultural building to five dwellings. It is questioned why the Council come to a different conclusion when dealing with the current appeal proposal. This other case would have turned on its own site-specific circumstances, and I note that the Council concluded that the majority of the barn would be retained. I have however found that it has not been demonstrated that the current proposal can be undertaken without substantial rebuilding of existing structures. The above prior approval therefore does not justify allowing this appeal. Any inconsistencies of approach would be a matter between the appellant and the Council.

Conclusion

32. For the reasons given, the appeal should be dismissed.

R Cahalane

INSPECTOR

⁸ MO/2023/1326