



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/24/3345918

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 R 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/2023/1630/PNK.
- The development proposed is described on the application form as: "Use of the existing buildings as long term storage lock up units."

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have also dealt with another appeal¹ on this site. That appeal is the subject of a separate decision.
3. 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.
4. 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. For the purposes of Class R, no transitional arrangements apply and the GPDO amendments do not materially affect the issues in dispute under this appeal. I have determined this appeal accordingly.

Main Issues

5. The main issues are:
 - whether the buildings subject of the proposed change of use are in use as agricultural buildings, or whether they were solely used for an agricultural use as part of an established agricultural unit on 3rd July 2012;
 - the effect of the proposal on highway safety, with particular regard to road layout and visibility at the junction of Burnt Oak Lane and Partridge Lane; and,
 - whether the proposal would be in a suitable location having regard to accessibility to sustainable travel modes.

¹ APP/C3620/W/24/3347432

Reasons

Agricultural use

6. 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.
7. 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.
8. 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 to be retained for storage use, both contained building materials at the time of my visit, but would be demolished to facilitate the proposal.
9. 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.
10. 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 change of 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.
11. The appellant contends that the key date for assessing agricultural use of the site is 3rd July 2012, as required by criterion R.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.
12. Some of the neighbouring representations, including for the other appeal² on this site, 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.
 13. The planning history of the appeal site indicates that permission was granted in 1998³ 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.
 14. 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 3rd July 2012.
 15. 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 R of the GPDO.
 16. There is no further relevant planning history beyond 1998 until 2022, when a full application⁴ for five dwellings following demolition of existing outbuildings in the appeal site was refused by the Council, and then dismissed on appeal⁵ in August 2023. I note that in the context of the National Planning Policy Framework's (the Framework) 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.
 17. 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 3rd July 2012. I therefore cannot find that the scheme complies with paragraph R.1(a) of the GPDO. Accordingly, the proposal

² See footnote 1

³ Council Ref: MO/98/0364

⁴ Council Ref: MO/2022/0772

⁵ APP/C3620/W/22/3309219

does not benefit from the permitted development rights under Schedule 2, Part 3, Class R of the GPDO.

Highway safety

18. The appeal proposal is for use of the existing buildings as storage lock up units for locals, to provide additional space for various domestic and recreational items, and possibly some larger items such as cars and motorbikes. Although visits would be made via appointment with no full-time employees on site, to my mind the nature of this storage use would still likely generate movements of larger vehicles such as vans to and from the site.
19. It is put to me that large vehicles such as tractors with associated trailers and mowers frequently access the appeal site. This has however not been corroborated by evidence. It has therefore not been demonstrated that the existing frequency and nature of vehicle movements to and from the appeal site is comparable to that which would likely be generated by the appeal proposal.
20. Burnt Oak Lane, which the appeal is accessed off, is a narrow private road with no footways. It is signposted as having a 10mph speed limit and a 10 ton weight limit, and contains some speedbumps. Some informal passing points have also been created within the grass verges.
21. The appeal site is near to the junction of Burnt Oak Lane and Partridge Lane. I understand that Partridge Lane is subject to a 40mph speed limit, and I observed its section by the junction to have a fairly narrow carriageway with no marked centre line. Although the junction bellmouth is relatively wide, the carriageway immediately narrows when entering Burnt Oak Lane. I observed some tyre tracks dug in to the northern junction verge edge. This suggests that some larger vehicles struggle to keep on the highway when turning left on to Partridge Lane, possibly to avoid oncoming traffic due to the limited carriageway widths.
22. The appeal site is near to a large caravan park to the northwest (Cudworth Park). The appellant also refers to other nearby commercial uses and development, but their full location details and planning context are not before me. I nonetheless observed during my site visit some larger commercial vehicles travelling west from Partridge Lane along Burnt Oak Lane. This demonstrated to me that Burnt Oak Lane is not wide enough for two larger vehicles to pass at the same time along the tarmacked section. Similarly, the restrictive size of the Burnt Oak Lane and Partridge Lane junction would in some instances likely lead to further highway obstruction when used by larger vehicles.
23. Moreover, prior approval as proposed under Class R also allows for future changes of use to other commercial uses such as Class C1 (hotels), Class E (commercial, business or service), Class F.2(c) (outdoor sport or recreation), and certain uses under Class B2 (general industrial). I therefore share the concerns of Surrey County Highway Authority (CHA) that larger vehicles would also be required for these various uses.
24. Albeit that my site visit was a snapshot in time, I observed traffic levels and vehicle speeds to be generally low. I accept that the existing road network is already used by agricultural and other large vehicles. I also note a previous proposal⁶ for five

⁶ See footnote 4 above

dwellings and the other appeal proposal⁷ within the site, also for five dwellings, where no highways issues were raised by the Council in either case. Whilst the level of additional vehicle trips arising from the current proposal might be commensurate to these residential proposals, the anticipated amount of larger vehicles emanating from the proposal subject of this decision would to my mind generate a materially different impact on the nearby highway network.

25. I conclude that the likely increase in larger vehicle trips arising from the current storage use proposal would result in unacceptable highway safety impacts, due to the restricted size of the Burnt Oak Lane junction with Partridge Lane, and the limited carriageway widths near to the site. Cumulatively, these matters would present unacceptable hazards and risks to highway users, even when accounting for the existing nature and level of highway use.
26. Paragraph W.10(b) of Schedule 2, Part 3 of the GPDO requires the decision-maker to have regard to the Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application. Framework paragraph 116 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, taking into account all reasonable future scenarios. The proposed change of use would be contrary to this policy objective.
27. In respect of the visibility splays at the junction of Burnt Oak Lane and Partridge Lane, I noted hedgerow on the northwestern side, but this is set back from the verge along Partridge Lane. I therefore found that this junction layout allows for extensive views northwards along a relatively straight section of highway. The southern junction splay is more restricted by telegraph poles, a public bridleway sign and some mature trees further beyond the junction. However, this section of Partridge Lane is also relatively straight and the abovementioned obstructions are slender along the lower levels needed for vehicular visibility. Whilst some vehicles may still have to edge further forwards before accelerating on to Partridge Lane, in my judgement sufficient visibility would nonetheless be provided.
28. However, for the above reasons I conclude that the proposal would result in unacceptable highway safety impacts due to the anticipated use by larger vehicles, the restricted size of the Burnt Oak Lane junction with Partridge Lane, and the overall limited carriageway widths near to the appeal site.

Location

29. I accept that the appeal site is not well served by public transport, and the nearby roads are unlit and have no footways. It would therefore be likely that many travellers to the site would be reliant on use of the private car. In this respect, the CHA consider that the site is not in a sustainable location and any intensification of use is therefore unacceptable.
30. The PPG⁸ advises that a permitted development right for a change to residential use does not apply a test in relation to sustainability of location. This is deliberate, as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs.

⁷ See footnote 1 above

⁸ 'When is permission required?' PPG paragraph 13-108-20150305

31. Although the appeal proposal relates to a change of use of agricultural buildings to a flexible commercial use rather than residential, the same principle applies as by their nature, agricultural buildings are often not located near public transport and other services. Applying the Framework and other local policies as quoted by the CHA and the Council would have the potential to frustrate the purposes of the introduction of this permitted development right.
32. As already set out in this decision, I have found unacceptable impacts in terms of some direct highways impacts arising from the proposal. However, the wider location of the appeal site in respect of public transport services is not a matter that can be assessed under this prior approval procedure.

Conclusion

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

R Cahalane

INSPECTOR