



Appeal Decision

Site visit made on 17 February 2025

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 March 2025

Appeal Ref: APP/L3815/W/24/3349664

82A Fletchers Lane, Sidlesham, Chichester, West Sussex PO20 7QG

- 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 Mr T Bloxham against the decision of Chichester District Council.
 - The application Ref is SI/24/01314/PA3R.
 - The development proposed is described as the change of use of a building and any land within its curtilage from the use as an agricultural building to a flexible commercial use (initially defined as class E (g) under the amended Use Class Order).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 GPDO)¹, development is permitted for the change of use of a building and any land within its curtilage, from use as an agricultural building to a flexible use falling within one of a specific list of provisions of the Use Classes Order², in this instance Class E (commercial, business or service) of Schedule 2³, subject to limitations and conditions.
3. The local planning authority (LPA), in this case the Council, may refuse the application where it considers that the proposed development does not comply with the conditions, limitations or restrictions set out in paragraph R.1.
4. Where an application is made for prior approval for development which is allowed by paragraph R.1 and the cumulative floor space that will change use exceeds 150sqm, paragraph R.3(1)(b) provides that the LPA determine as to whether its prior approval is required in relation to a) transport and highways impacts; b) noise impacts; c) contamination risks; and d) flooding risks; and the provisions of paragraph W.

Main Issues

5. The LPA in this case has refused the application in relation to the suitability of the building in question and its existing use, consequently its non-compliance with paragraph R.1.

¹ Going forward I will refer to Schedule 2, Part 3, Class R of the GPDO as 'Class R'.

² The Town and Country Planning (Use Classes) Order 1987 (as amended)

³ Section (a)(iv) of Class R

6. Hence the main issues are whether the proposed development would constitute permitted development in respect to paragraph R.1; and if the proposal is found to constitute permitted development, whether prior approval would be required in accordance with paragraph R.3(1)(b).

Reasons

Paragraph R.1

7. The appeal site constitutes a singular glasshouse which forms part of a wider site that includes other glasshouses and structures and is accessible from Fletchers Lane. The glasshouse in question has some parts of the frame that require maintenance, but the majority of works would appear to be the replacement of glass panels and removal of overgrowth from the compacted dirt floor.
8. Class R specifically relates to a building, and within article 2 of the GPDO a building includes any structure or erection and does not include any gate, fence, wall, or other means of enclosure. This is a broad description, but it is notable that there is no requirement concerning the state of repair of that structure or erection and as Class R provides for only a change of use, any operational development is likely to require separate planning permission. Therefore, I am satisfied in the context of the afore mentioned interpretation, the glasshouse would constitute a building for the purposes of this appeal.
9. Paragraph R.1 has 5 criteria which would prohibit development under Class R. The main parties agree that criteria (b), (c), (d) and (e) are not applicable and there is nothing before me to conclude otherwise. The LPA has also confirmed that the glasshouse's agricultural use as part of an established agricultural unit ceased in 2018 but was used as such on 3 July 2012. Although in its opinion has since been used for other purposes.
10. However, the requirements of paragraph R.1(a) are not related to intervening uses or the most recent use of a building. It requires the building to have been used solely for an agricultural use, as part of an established agricultural unit on (i) 3 July 2012, or (ii) 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, or (iii) in the case of a building which was brought into use after 3rd July 2012, for a period of at least 10 years before the date development under Class R begins.
11. As it is only necessary for one of the requirements of paragraph R.1(a) to be met, in this instance that would be paragraph R.1(a)(i). Therefore, the proposal would constitute permitted development as set out in paragraph R.1. Consequently, it is necessary to consider the proposal against the conditions of paragraph R.3(1)(b).

Paragraph R.3(1)(b)

12. The LPA have referenced its consultants' responses in relation to the criteria of paragraph R.3(1)(b) all of which do not raise an objection. Although this could be inferred that the LPA do not object to the proposal in terms of the criteria of R.3(1)(b), paragraph W(10) requires that the concerns of interested parties are to be taken into account. In this instance, interested parties have raised concerns relating to transport and highways impacts of the development.
13. The Local Highway Authority (LHA) has confirmed that the proposed change to Use Class E(g) would have similar traffic capacity implications to the building being

reused as a nursery. Nevertheless, the LHA has also identified that Fletchers Lane is not under its jurisdiction and so its capacity comments are limited to the lane's junctions with the adopted highway at either end.

14. It was observed during the site visit that Fletchers Lane is narrow with sporadic passing bays and in some places requires repair. Accordingly increased traffic along the lane may impact the safe use of it. Taking account that the road is unadopted, and with only a limited submission from the appellant in terms of the traffic implications of the proposed use of the glasshouse, there is insufficient information to reasonably determine the transport and highways impacts of the proposed change of use with specific regard to Fletchers Lane.
15. Consequently, it cannot be reasonably determined whether the proposal would cause harm in relation to the provisions of paragraph R.3(1)(b)a).

Other Matters

16. Interested parties also had concerns relating to drainage and utilities, and the LPA confirmed there is an enforcement case open on the wider site relating to a residential use. However, these are not factors that affect the limited issues that can be considered in this appeal.
17. The LPA referenced 3 appeals relating to the state of the glasshouse and the potential operational development required. 2 appeals⁴ relate to a different GPDO class which allows for operational development to can be considered, whereas Class R only allows a change of use. The final appeal⁵ was in relation to a lawful development certificate for a Class R change of use. This highlights the fact-sensitive nature of such decisions as that proposal was for the change of use of a disused farmhouse which did not have a roof and consisted of only partial walls. Therefore, to convert the farmhouse to the proposed hotel, would have significantly more capability implications to the proposed change of use than that of the proposal before me.
18. The appellant has also referenced 3 different appeals⁶ relating to Class R permitted development. The inspectors' conclusions in those appeals align with the findings of this decision.

Conclusion

19. For the reasons given above although the proposed development would constitute Class R permitted development, a lack of information means it is impossible to consider whether prior approval should be granted. The appeal is therefore, dismissed.

RJ Redford

INSPECTOR

⁴ APP/L3815/W/22/3295815 and APP/L3815/W/22/3312061

⁵ APP/K0235/X/22/3303930

⁶ AAP/C3230/W/21/3272868 and APP/K0235/W/21/3283941