



Appeal Decision

Site visit made on 20 May 2025

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2025

Appeal Ref: APP/E2205/W/24/3355619

Annexe, Cruttenden Farm, Brook Street, Woodchurch, Kent TN26 3SR

- 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 MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Paul Williams against the decision of Ashford Borough Council.
 - The application Ref is NOT/2024/0833.
 - The development proposed is the conversion of existing business premises to residential.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), development is permitted for the change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order, subject to limitations and conditions.
3. The Council may refuse the application where it considers that the proposed development does not comply with, or that the developer has provided insufficient information to enable the Council to establish whether the proposed development complies with the conditions, limitations or restrictions set out in paragraphs MA.1 and MA.2.

Main Issue

4. The main issue is whether the proposed development would constitute permitted development under Schedule 2, Part 3, Class MA of the GPDO.

Reasons

5. The appeal site is occupied by a two-storey timber framed barn located on a former farm yard. It is located directly adjacent to another slightly larger barn, both which share the access from Brook Street. The appellant has stated that the building was used for agricultural purposes up to the 1960s, storage for a pottery business until 1976 and as a computer sales and repair business, named Roslyn Friday Associates, from 1980 until November 2022.

6. Paragraph MA.1(1)(b) of the GPDO states that development is not permitted by Class MA unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval. Under MA.1(2)(b), on or after 1 September 2020, this includes Class E (commercial business and service) of Schedule 2 of the Use Classes Order.
7. Article 3(5)(b) of the GPDO provides that the permission granted by Schedule 2 of the GPDO does not apply if, in the case of permission granted in connection with an existing use, that use is unlawful. Therefore, it must be established as a matter of fact on the evidence that the previous use was both subsisting and lawful. Therefore, if the previous use was not lawful or it involved a use not specified in MA.1(2), the permitted development right granted under Class MA would not apply.
8. The previous business use of the building, as outlined by the appellant, does not appear to have been granted explicit planning permission for use as either a pottery business or a computer sales and repair business. However, the appellant contends that planning permission is not required as the usage of the building over time, for Class E purposes, has established its lawfulness. However, it is necessary to come to a view on this, based on the evidence before me.
9. The appellant has provided numerous pieces of evidence which they consider demonstrates the existing Class E use of the appeal building. This includes, a photo showing a large number of computers stored within, what is stated is, the appeal building, an advertisement for the business Roslyn Friday Associates on the website 'Ashford Online' stating its location as Cruttenden Farm, aerial photos of the appeal site which the appellant states shows cars visiting the appeal building, a photo of pottery created at 'Cruttenden' in the 1970s displayed in a museum, a testimony from the daughter of the previous owner confirming her parents company was called 'Rosalyn Friday' and the appeal building was used as an office and, finally, text messages which claim to show the collection of the computers from the appeal site when the business use ceased.
10. This information provided as part of the application and appeal may suggest that the appeal building or others on Cruttenden Farm were used at some point for the business purposes outlined by the appellant. However, it is inconclusive and anecdotal, with no parts of the evidence categorically confirming the stated business use of the appeal building or the period of time in which it fell under this use. Therefore, based on the evidence before me and strictly for the purposes of this prior approval appeal, I cannot confirm that the stated use of the building was either subsisting or lawful or would meet the requirements in paragraph MA.1(1)(b) of the GPDO as outlined above. Furthermore, even if the appeal building was used for business purposes, without the evidence to suggest otherwise, it is likely that Article 3(5)(b) of the GPDO precludes the permitted development rights in question.
11. Schedule 2, Part 3, paragraph W.(3)(b) of the GPDO states that the local planning authority may refuse an application where, in the opinion of the authority the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified in this Part as being applicable to the development in question. Therefore, the Council did not go beyond its responsibilities when

assessing the prior approval application before them on matters in relation to usage as part of the limitations within paragraph MA.1 of the GPDO.

12. As such, having regard to all of the above, I conclude that the proposed development would be contrary to paragraph MA.1(1)(b) of the GPDO and so would not constitute permitted development under Schedule 2, Part 3, Class MA of the GPDO.

Other Matters

13. I note the appellant's frustrations in relation to communication with the Council during the application and their assertion that more evidence could have been provided to the Council if requested. However, this would have no bearing on the matters relating to the appeal and would not alter my overall findings. It is also noted that the appellant considers that a new decision should be issued as there was contention in relation to the use of the word unauthorised or unlawful within the Council's decision notice and report and they therefore consider it to be inaccurate. However, again, this would not alter the outcome of the original application or change my findings in relation to the appeal.
14. The appellant contends that if the appeal building is considered to be agricultural by the Council, then Schedule 2, Part 3, Class Q of the GPDO would apply which relates to a change of use of agricultural buildings to dwellinghouses. However, the appellant has not applied for prior approval under Class Q and therefore it is irrelevant to the appeal before me.
15. My attention has been brought to a previous application¹ for the prior approval of the different barn on the appeal site under Schedule 2, Part 3, Class Q of the GPDO. The appellant states that this application was based on the usage of the building changing over time rather than its official use. However, I am unaware of the details of this application or the evidence before the Council when making their decision. Therefore, it would not set a precedent for the proposal before me or my consideration of this appeal.

Conclusion

16. Therefore, for the reasons given above and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class MA of the GPDO. Therefore, the appeal is dismissed.

E Grierson

INSPECTOR

¹ NOT/2022/3126