



Appeal Decision

Site visit made on 31 January 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal Ref: APP/W1715/W/22/3307667

Hatts Copse Farm, Brook Lane, Botley, Hampshire SO30 2ER

- 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).
 - The appeal is made by Mr Brinton King against the decision of Eastleigh Borough Council.
 - The application Ref PN/22/93479, dated 20 July 2022, was refused by notice dated 31 August 2022.
 - The development proposed is described as a 'Prior Notification application under Class Q for the change of use from Agricultural Buildings to 2no. Dwellinghouses (Use Class C3).'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken directly from the Council's Decision Notice. However, in part E of the appeal form it is stated that the description of development has not changed but, nevertheless the above wording is different to that on the planning application form. Neither the main parties have provided written confirmation that a revised description of development has been agreed. Notwithstanding this, it is clear that the Council determined the application on the basis of this more accurate description, and so shall I.
3. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GDPO) (the GDPO) permits the change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Paragraph Q1a sets out the circumstances where development would not be permitted by Class Q, namely;
 - (a) The site was not used solely for an agricultural use as part of an established agricultural unit:
 - (i) On 20 March 2013; 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 site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins.

Main Issue

4. The main issue is whether the proposed development falls within the terms of the permitted development rights under Schedule 2, Part 3, Class Q of the GDPO.

Reasons

5. The appeal site forms part of the larger Hatts Copse Farm landholding. Although referred to by the appellant as one building, the appeal site comprises two separate single storey buildings. Described by the appellant as a workshop but of a similar form, scale and appearance to a garage, during my site visit I observed this building (Building 1) being used for the storage of a range of hand and power tools, a ride-on mower and various materials. Within the internal room, electrical equipment was present, along with a large number of racked stored empty bottles. The other building (Building 2) is larger and, given its wooden construction and substantial double doors, has a barn-like appearance. At the time of my visit this building was largely being used to store agricultural equipment and vehicles, including a tractor and trailer, power tools, wood and other materials, in addition to items more closely related to a residential use, such as garden furniture.
6. The main parties dispute the use of both buildings on 20 March 2013. Whilst documentation¹ submitted with the appeal application relates to financial information associated with Kristina's Partnership, these relate to a period of time after 20 March 2013. Additionally, as these details are not attributed to a specific building or buildings on Hatts Copse Farm they do not demonstrate the buildings were in agricultural use on this date.
7. My attention has been drawn to the planning permission² relating to the change of use of the stables and paddock for full livery for 6no horses on the wider landholding which was granted on 5 August 2011. Whilst the documentation submitted with this application states that the main stable block and barn buildings are to be associated with the livery, it is not clear from the Site Plan³ or the description of development which buildings this statement is referencing. Notwithstanding the appellant's statement that Building 2, labelled as 'Barn' on the plan, is a 'Hay Barn', this does not sufficiently demonstrate that the buildings were in agricultural use on 20 March 2013.
8. Although the appellant has provided photographs which they contend relate to a date prior to 20 March 2013, these are not date stamped and do not show either building. Therefore, they do not provide certainty around the use of the appeal buildings prior to 20 March 2013, in order to satisfy Class Q(a)(ii). Additionally, as the correspondence⁴ between the appellant and the Council during the determination of the application confirms that both buildings have

¹ Undated photograph of a computer screen displaying a spreadsheet titled Kristina's Partnership Expenses with calculations referring to years ending April 2018 – 2021 and a copy of a Remittance Advice addressed to Kristina's from the Rural Payments Agency dated 12 May 2021

² Planning application ref: F/11/69156

³ Site Plan (Ref: Hatts_v1)

⁴ Email dated 15 August 2022 from Ian Knight, agent for Mr Brinton King to Alex Webb at Eastleigh Borough Council

been used for a mixture of agricultural and residential purposes since 20 March 2013, it is unclear when they were solely in agricultural use. As such, there is limited substantive information to conclude that the circumstances set out in Class Q(a)(iii) do not exist.

9. Consequently, I conclude that, based on the evidence before me, the proposed change of use of the buildings would not satisfy the requirements of Schedule 2, Part 3, Class Q of the GDPO, and therefore is not development permitted by it. Given this, irrespective of the fact that the proposed development does not include extensions to the buildings and only a modest curtilage to the proposed dwellings would be provided, there is no need for me to consider whether or not prior approval would be required as it would not alter the outcome of the appeal.

Other Matters

10. The appeal site is located within the Solent and Southampton Water Special Protection Area (SPA), Solent Maritime Special Area of Conservation (SAC) and the New Forest SPA. Therefore, a financial contribution toward mitigation is required and none is provided. If the circumstances requiring me to consider whether or not prior approval would be necessary had been present, I would have been incumbent upon me as the competent authority to consider whether the proposed development would be likely to have a significant effect on the integrity of the SPAs and SAC, in accordance with the Conservation of Habitats and Species Regulations 2017. However, as I am dismissing the appeal on the main issue above, I have not found it necessary to consider such matters any further.

Conclusion

11. For the reasons given above, the appeal is dismissed.

Juliet Rogers

INSPECTOR