
Appeal Decision

Site visit made on 13 October 2016

by AJ Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 November 2016

Appeal Ref: APP/Z3825/W/16/3152874

Land at Brookside Farm, Dagbrook Lane, Henfield, West Sussex BN5 9SH

- 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.
 - The appeal is made by Mr Mark Elsam against the decision of Horsham District Council.
 - The application Ref DC/16/0147, dated 19 January 2016, was refused by notice dated 10 March 2016.
 - The development proposed is the conversion of agricultural buildings to form 3 dwellinghouses (use class C3).
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Mark Elsam against Horsham District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council determined, under their reference DC/15/1950, that the change of use of these buildings and any land within their curtilage from a use as agricultural buildings to a use falling within Class C3 (dwellinghouses) is acceptable in accordance with Schedule 2, Part 3, Class Q. (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
 4. The information submitted alongside the application confirms that the appellant intended the current prior notification to be considered under Schedule 2, Part 3, Class Q. (b) of the GPDO given the Council's earlier consideration under Class Q. (a). However, the conditions at Class Q.2 confirm that following approval under Class Q. (a), an application is necessary under both Class Q. (a) and Class Q. (b) and there is no procedure to apply under Class Q. (b) alone. As such, the appeal before me must relate to both Class Q. (a) and Class Q. (b) and I will proceed on this basis.
 5. Revised plans were submitted alongside the appeal that did not form part of the prior notification before the Council, which show a smaller curtilage area than on the originally submitted plans. I have taken these into account in coming to my decision.
-

6. During the course of the appeal, the High Court issued judgment on *Hibbitt v. Secretary of State for Communities and Local Government [2016] EWHC 2853 (Admin)*. I invited comments from the parties and have taken the judgment and comments received into account in coming to my decision.

Main Issues

7. On the basis of the above, I consider that the main issues are:
- whether the proposed works would go beyond the extent reasonably necessary to convert the buildings into dwellinghouses; and
 - whether the curtilages of the proposed dwellings would be greater than the area of the agricultural buildings that are changing use.

Reasons

Whether works are reasonably necessary

8. The application relates to the conversion of two buildings. Building 1 is the larger barn that consists of a steel frame forming three bays with lean to extension to the west. It is clad with corrugated metal to two sides and on the roof. Building 2 is a concrete framed structure, with four rows of reinforced concrete columns, with a roof covering of asbestos cement sheeting and metal sheeting to part of one wall.
9. Building 1 is intended to be converted to two dwellings with timber clad walls and metal to the main roof and slate to the lean to roof. Building 2 would be converted to a timber clad and slate roofed single dwelling. Both buildings are adjacent to residentially occupied former agricultural buildings.
10. The judgment in the case of Hibbitt concerned a barn with six steel uprights with corrugated fibre mono-pitched roof supported on timber cross beams that was described as a lightweight structure. Structural infill panels (SIPs) were proposed to be installed and fixed to the existing frame and it was demonstrated that the SIPs would not comprise structural elements in their own right, but would rely on the steel frame. Given that it was an open sided barn, the Inspector concluded that the need to construct all four exterior walls in that manner would go well beyond what could reasonably be described as a conversion, referred to in Class Q. (b). The issue was whether the works went beyond what could be defined as a conversion and was, in fact, a rebuild.
11. In the present case, all of the sheeting to the walls and roofs of the buildings would need to be removed and replaced and the extensive open areas enclosed by new walls, which I note would use the existing frames for their structural support. The Council suggest that the works are more than can be considered reasonably necessary in order to convert the building such that it would be closer to a rebuild. Although they did not comment on Hibbitt, their case seems to be similar.
12. I accept that the existing construction of the barns and details of the method of conversion in this case differ from that in Hibbitt, but it remains the case that the limited existing cladding would be removed and replaced with new walls on both barns. These would rely on the existing frames for their structural support, but would otherwise comprise new walls that would significantly alter the external appearance of the building. As a result, I conclude that the

proposed development would be more than can be considered a conversion and, consequently, the works proposed do not comply with Class Q. (b).

13. Whilst I am required to deal with both Class Q. (a) and Class Q. (b), the fact that permission has already been granted under Class Q. (a) is a material consideration. That confirmed the proposal comprised permitted development in relation to the change of use of the buildings and land within their curtilage, but does not relate to the conversion of the building that is required to be considered under Class Q. (b). These are separate considerations and it does not necessarily follow that a building granted change of use under Class Q. (a) would be capable of conversion under Class Q. (b).
14. I note the appellant's comments on paragraph 55 of the National Planning Policy Framework (the Framework) and reference to that in Hibbitt. The judgment refers to Class Q determining the more clear-cut cases and more complex cases being considered under paragraph 55 of the Framework. Like that barn, the proposal is not clear-cut. The fact that both barns are adjacent to residential dwellings might be a material consideration in a planning application, but does not have a bearing in the considerations under Class Q.

Curtilage

15. The revised floorplans submitted with the appeal provide areas of floor space and curtilage to demonstrate that the curtilages would not be greater than the area of the agricultural buildings that are changing use.
16. For this reason, I conclude that the curtilages of the proposed dwellings would comply with the definition of curtilage as provided by Schedule 2, Part 3, Paragraph X of the GPDO. As such, the proposed development would comply with Schedule 2, Part 3, Class Q. (a) of the GPDO.

Other matters

17. I note reference to appeal decision APP/Z3825/A/15/3130771 regarding conversion of an agricultural building elsewhere within this district. I understand that this may be comparable to the current scheme in terms of the works required to convert the building, although it pre-dated the judgment in Hibbitt and I have considered the present scheme on its individual merits.

Conclusion

18. For the reasons given above I have found that the proposed change of use cannot be permitted development under Schedule 2, Part 3, Class Q of the GPDO as the proposed development would constitute more than can be considered a conversion under Class Q. (b). Therefore, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR