

Appeal Decision

Site visit made on 5 December 2016

by Thomas Bristow BA MSc MRTPI

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

Decision date: 19 December 2016

Appeal Ref: APP/R3325/W/16/3154499

Gunville Farm, Harvest Lane, Milborne Port DT9 4PH

- 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 Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Hopkins Developments Ltd against the decision of South Somerset District Council.
 - The application Ref 16/00929/PAMB, dated 16 February 2016, was refused by notice dated 18 April 2016.
 - The development proposed is the conversion of two agricultural buildings into two dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description of development in the banner heading above in preference to that given in the application form, which simply refers to a supporting statement related to the proposal. This description is also more accurate than that given within the Council's decision notice which refers to change of use alone, given that the proposal also involves building operations.
3. As such the proposal relates to the types of development set out under Schedule 2, Part 3, Classes Q(a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 'GPDO'). As the proposal relates to two barns I have drawn distinctions between issues common to both and specific to one or the other where necessary.
4. This appeal also follows unsuccessful application Ref 14/05403/PAMB, which was for similar development. Although there is reference within the information before me comparing application Ref 16/00929/PAMB with its predecessor, I have determined the proposal before me with reference to its particular merits.

Main Issues

5. There is no dispute that the current proposal meets the requirements of Schedule 2, Part 3, paragraphs Q.1(a) to (h) or (j) to (m) of the GPDO. There is similarly no dispute that the majority of the works proposed, including the
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installation of windows and doors and alterations to the roof and exterior walls are compliant with the provisions of paragraph Q.1(i).

6. However the first matter in dispute, and therefore the first main issue, is whether the building operations proposed would effectively amount to the creation of new structural elements to the building beyond that which is permitted by paragraph Q.1(i), and hence whether or not the development proposed is permitted development.
7. Schedule 2, Part 3, Paragraph Q.2 of the GPDO sets out that where the development proposed is 'under Class Q(a) together with development Class Q(b)', development is permitted subject to an application to the local planning authority for a determination as to whether their prior approval is required in relation to the matters set out in paragraphs Q.2(1)(a) to (f).
8. Subject to relevant conditions the Council do not appear object to the proposal with reference to the provisions of paragraphs Q.2(a) to (d). However the Council's second reason for refusal within their decision notice is that residential development here would fail to respect the character and appearance of the locality, and thus the development proposed would be 'undesirable' with reference to paragraphs Q.2(e) and (f).
9. Consequently the second main issue in this appeal is whether or not the location or siting of the building renders the proposal undesirable, with particular reference to the effect of the proposal on the character and appearance of the area.

Reasons

Whether or not permitted development

10. Gunville Farm is a complex of buildings and structures which was formerly in operation as a dairy farm. Various buildings and structures are proposed for demolition as part of the scheme. Aside from a single storey dwelling ostensibly associated with the former use of Gunville Farm, and notwithstanding that the settlement of Charlton Horethorne falls approximately half a kilometre distant, the appeal site is within the open countryside outside of any defined development boundary. The site is accessed via Green Lane, which connects nearby with Harvest Lane.
11. Barn 1, a utilitarian steel-framed building, is the smaller of the two barns proposed for conversion. With a concrete floor, at the time of my visit it hosted deteriorating feed stalls. Walls are blockwork courses at a low-level with spaced timber cladding above, aside from three large metal barn doors which comprise the majority of one elevation. The roof is profiled fibre sheeting with several translucent panels. At the time of my site visit certain steel uprights showed visible signs of corrosion resulting from the passage of time and various timber planks were missing or damaged.
12. Barn 2 is a larger building of similar utilitarian appearance and steel-framed construction which was empty at the time of my site visit. It appeared to me that the floor was not a consolidated surface, being instead compacted earth. Most walls of barn 2 are blockwork at a low level, aside from the southern elevation which is substantially blockwork aside from at a high level where the

barn is open to the eaves. Otherwise walls are corrugated metal sheeting. Two large metal doors are present within one elevation and two within another. The roof is again profiled fibre sheeting with translucent panels. In certain places the walls and frames of the building showed visible signs of rust.

13. Schedule 2, Part 3, paragraph Q.1(i)(i) of the GPDO enables the installation of replacement (aa) windows, doors, roofs or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out such building operations.
14. Relatedly the Planning Practice Guidance (the 'Guidance') sets out that 'it is not the intention of the permitted development right to include the construction of new structural elements of the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right'.¹
15. In this context the judgement handed down on 9 November 2016 in *Hibbitt & Anor v Secretary of State for Communities & Local Government & Ors* (referred to hereafter as the 'Hibbitt judgement') has been brought to my attention by the Council, upon which the appellant has had the opportunity to comment.² Whilst it is axiomatic that the circumstances relevant to the development to which that judgement relates are different from those relevant here, the Hibbitt judgement nevertheless concerns matters regarding the extent of building operations permissible via Class Q of the GPDO.
16. The Hibbitt judgement addresses the extent to which building operations to facilitate residential use may be considered to amount to 'conversion' of the relevant agricultural building. Briefly summarised, it explains that where the nature of works proposed would be so fundamental as to effectively result in a rebuilding of the relevant building based on planning judgement, this is not permissible.³ It further clarifies, however, that the extent of works proposed is not in itself dispositive but rather a factor in determining whether the works proposed are part of a conversion.
17. The appellant has provided a structural report in support of the proposal (the 'report').⁴ This acknowledges the presence of a small amount of corrosion but sets out that the barns are generally in good condition. However it explains at paragraph 3.8 that '...when the frames were analysed to current standards they were not capable of sustaining the existing loading pattern. Hence further loading from the proposed development could not be accommodated'.
18. Paragraph 4.6 of the structural report recommends works to be undertaken as part of the proposed conversion. These include redistributing roof loads, the introduction of further framing and the replacement or renewal of certain bolts. Some additional works are also suggested including additional internal propping and bracing. Whilst the structural report sets out that there will not be a need

¹ Reference ID 13-105-20150305.

² EWHC 2853 (Admin).

³ In particular as set out in paragraph 27 thereof.

⁴ Prepared by Euro-Tel Design Ltd, dated February 2016.

for 'ground improvements or piled foundations' barn 2 will require some form of consolidated floor.

19. The report, however, further recommends 'improving the foundations', apparently of both barns. This recommendation follows the results of trial pit investigations. Paragraph 3.5 of the report thereof identifies that the stanchions of the barns were not fixed by bolts and had 'plain end plates' rather than ones with a projection to brace the load of the barn.
20. The report further sets out that water was apparent in two of the trial pits at barn 1 and running water at one of the trial pits at barn 2. Collectively these findings indicate that work to the foundations will be required, which is not permissible with reference to paragraph Q.1(i)(i).
21. I appreciate that development which does not materially affect the exterior of a building is not development.⁵ As such I accept that the barns may be capable of being structurally reinforced to a degree that would render them suitable for conversion to residences, potentially without the need for consent from the Council.
22. However this is where the Hibbitt Judgement becomes relevant. As set out above, the structural soundness of both barns will need augmenting. Certain elements of walls which are not present through design or neglect will also need to be introduced, and barn doors blocked up. A new floor will be required in respect of barn 2. The foundations of both will require shoring up.
23. I am therefore not satisfied on the basis of the information before me that considered cumulatively, with regard to their extent and significance to the existing structure of the property, that such fundamental changes could reasonably be described as 'conversion' as opposed to being more akin to 'rebuilding'. Whilst I accept that the existing structures may be capable of being retained during such works, the Hibbitt Judgement affirms that the distinction between conversion and rebuilding is a matter of judgement.
24. Although not determinative, my view here is reinforced by the way in which the role played by the current structure has been phrased in information provided by the appellant. At paragraph 4.1 of the report reference is made to the existing structures forming an 'integral part of the proposed structure'. Used in this context 'integral' clearly indicates that other structural elements are necessary.
25. For the above reasons and on the basis of the information before me I am not satisfied that the proposal would accord with the limitations set out in Schedule 2, Part 3, paragraph Q.1(i) of the GPDO, considered with reference to the Guidance and taking account of the Hibbitt judgement. Accordingly I conclude that the proposal is not permitted development.

Whether or not undesirable, with reference to character and appearance

26. The appeal site falls within a rural landscape characterised by irregular open fields demarcated by traditional hedgerows and mature trees. The gently rolling

⁵ With reference to Section 55(2)(a)(ii) of the Town and Country Planning Act 1990 as amended.

topography of the wider area in this location slopes downwards from the appeal site in the direction of Charlton Horethorne.

27. It appeared to me, however, that there are comparatively few public vantage points from which the barns proposed for conversion are readily apparent. The topography is such that in my view Gunville Farm is not particularly prominent in the landscape, particularly from the south and west. Moreover there are substantial hedgerows and trees bounding Green Lane, and others also present at a greater distance from the appeal site, which serve to obscure clear views of Gunville Farm.
28. Schedule 2, Part 3, paragraph W(10)(b) of the GPDO sets out that in determining an application for prior approval under Class Q, regard must be had to the National Planning Policy Framework (the 'Framework') 'so far as relevant to the subject matter of the prior approval'.
29. In this context the Framework sets out that planning should recognise the intrinsic character and beauty of the countryside, that it is proper to seek to promote local distinctiveness, and that decisions should address the integration of new development into the surrounding environment.
30. The Guidance sets out that undesirable should be accorded its ordinary meaning of 'harmful or objectionable'. However it also sets out that applications for prior approval should be approached 'from the premise that the permitted development right grants planning permission...', thus 'that an agricultural building is in a location where the local planning would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval'.
31. The example given of a situation where such a conversion may be undesirable is if it is 'adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals'. Whilst this is clearly only one example, it indicates that a proposal should only be considered undesirable where clearly demonstrable harm would arise.
32. I appreciate that the surrounding environment is characterised primarily by a rolling farming landscape with few dwellings, and that the proposal by virtue of the design of the barns and associated residential curtilages would lead to some degree of domestication thereof.
33. However, as set out above, visibility of the proposal from public vantage points would be limited on account of the topography of the land and screening afforded by hedgerows and trees (boundary features within the appellant's control could indeed be protected or augmented via condition). The surroundings landscape is moreover subject to no protective designations relevant to this appeal related to its character.
34. The proposal would not enlarge the scale of the barns, which would consequently confine the visual effects of the proposal essentially to matters of design rather than form. The proposal would also entail the demolition of a number of buildings and structures, and thereby significantly reduce the density of built development in this location. This which would reduce the

impact of Gunville Farm on the surrounding landscape, notwithstanding that the farm complex has been a feature of the area for some time.

35. I am not of the view that light that would be emitted by the dwelling or disturbance that would result from vehicles associated with the domestic use of the barns, whether visually or audible, would be demonstrably different from that which would arise from a working farm (being the established use of the appeal site). In any event such effects of the proposal would, for the above reasons, be confined to a localised area.
36. Whilst there would clearly be some effect resulting from the proposal on the character and appearance of the area this would be qualified on account of the circumstances particular to this proposal and its surrounding context. For the above reasons I therefore conclude, with reference to the approach in the Guidance, that the proposal cannot in my view be said to be undesirable in the terms of paragraphs Q.2(e) and (f) with particular reference to its effects in respect of the character and appearance of the area.
37. Nevertheless I have reached a finding on the second main issue only as it was a disputed matter between the parties, it does not alter my finding in respect of the first main issue that the proposal is not permitted development in the first instance.
38. In concluding on this main issue I have taken into account appeal Ref APP/R3325/W/15/3129002 which the Council has brought to my attention. However the proposal in that case is described by the inspector as standing 'alone in a field' and 'prominently located' with reference to a main road and nearby footpaths. As such the circumstances relevant to that appeal are not directly comparable with the situation here.

Conclusion

39. For the above reasons, and having taken account of all other matters raised, I conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR