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# Appeal Decision

Site visit made on 17 July 2017

**by David Cross BA (Hons), PGDip, MRTPI**

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

**Decision date: 17 August 2017**

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**Appeal Ref: APP/P2935/W/17/3174316**

**Breckon Hill Farm, Lowgate, Hexham, Northumberland NE46 2NL**

- 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 M Haigh against the decision of Northumberland County Council.
  - The application Ref 16/04362/AGTRES, dated 23 November 2016, was refused by notice dated 18 January 2017.
  - The development proposed is conversion of existing barn to residential use.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Mr M Haigh against Northumberland County Council. This application is the subject of a separate Decision.

## Procedural Matters

3. The Council's reason for refusal refers to the proposal resulting in a cumulative floorspace in excess of 450 square metres. Subsequent to their decision, the Council has accepted that this was based on a misreading of the plans and has not contested the ground of appeal on this matter. I have proceeded to determine the appeal on that basis.
4. I referred the parties to the High Court judgement on *Hibbitt*<sup>1</sup> and gave the parties opportunity to comment on whether they consider this case has any bearing on this appeal. I have taken account of the comments made by the parties in relation to this judgement.

## Main Issue

5. The main issue is whether the proposal would be permitted development under Class Q of the General Permitted Development Order (GPDO), having particular regard to whether the building operations would be reasonably necessary to convert the building.

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<sup>1</sup> Hibbitt and Another V Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin).

## Reasons

6. I saw that the main element of the existing structure consists of a steel frame with a corrugated roof in two curved sections. There was an extension to the side primarily supported on a wooden frame and which was enclosed on two elevations, although this would be demolished as part of the proposal. Each steel column of the frame was set in concrete around the base. The appellant confirms that the retained structure would be strong enough to take the loading from the proposed external works. Based on the evidence before me I have no reason to disagree.
7. However, the proposal would involve the replacement of a significant extent of the building's exterior surfaces; very little, if any, of which would remain as part of the resultant building. In my view, the need to infill at least two of the elevations of the building, and substantially infill a third, goes beyond that required to be reasonably considered to represent a conversion of the building. The extent of the rebuild required to enable the residential use increases still further when matters are considered such as the replacement roof sheets, the demolition of the southern part of the building including an extent of wall, installation of cladding on all elevations and the apparent need to install a floor pad. Although permitted development may involve extensive work, the degree of the proposed works goes beyond what could reasonably be considered to be a 'conversion' and would represent a 'rebuild' under the terms of *Hibbitt*.
8. The appellant has expressed concern that the reason for refusal refers to 'partial demolition' and 'building operations' and that the Council have not specified which operations did not meet the tests in the legislation. However, in the light of the *Hibbitt* judgement, the concept of a 'conversion' is found within the overarching provision of Class Q, and this is a requirement that must be met before looking at the exceptions in Q.1. The overarching principle of whether or not a proposal represents a conversion of a building is not governed by the exceptions listed in Q.1. The assessment is essentially a matter of planning judgement as to whether the proposal would represent a rebuild rather than a conversion.
9. For the above reasons, I conclude that the proposal would, as a matter of fact and degree, involve a significant degree of rebuilding that would exceed the level of building operations reasonably necessary to convert the barn into a dwelling. The proposal would not therefore be permitted development under Class Q.
10. In reaching this conclusion, I have had regard to the planning approvals and appeal decisions referred to by the appellant. This includes a recent appeal decision for Old Town Farm<sup>2</sup> where a proposal was allowed which included partial demolition and conversion to residential use. However, based on the evidence before me, this scheme related to a much larger building which was enclosed on all sides, although extents of wall would be inserted for each dwelling as a result of the demolition. I also note that the Inspector referred to features including a concrete slab as well as block walls which were to be retained. The circumstances of that appeal are therefore materially different from the case before me.

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<sup>2</sup> Appeal ref: APP/P2935/W/16/3157544

11. I have also had regard to the approval<sup>3</sup> issued by the Council for the conversion of 'Range 1' at Breckon Hill Farm and which I viewed on my site visit. However, whilst the extant Range 1 building includes an element which is open on three sides, I also saw that a significant element of the building consists of a more substantial brick built structure which was enclosed on at least three sides. The approved plans show that significant areas of the brick walls would be retained. The circumstances of the Range 1 proposal are therefore also materially different from the case before me.
12. The appellant has highlighted an approval issued by the Council for Steel Rigg<sup>4</sup>, which related to an agricultural building open on all sides with a roof supported on a steel frame. However, I note that this pre-dates the *Hibbitt* judgement. Indeed, I have considered all of the planning approvals and appeals brought to my attention by the appellant in his grounds of appeal and it is apparent that the great majority of these proposals were determined prior to *Hibbitt*. It is apparent that the Council and Inspector in each case considered the proposals on the information before them and the particular circumstances at that time, as have I. Furthermore, notwithstanding that I consider the proposals at Old Town Farm and Range 1 are materially different to the appeal proposal, whilst these decisions post-date *Hibbitt* there is nothing in the evidence presented to me to indicate that they were considered in the light of that judgement. In any event, I have determined this appeal on its own merits.
13. I have also considered the decisions brought to my attention by the appellant in response to the *Hibbitt* judgement. However, based on the submitted evidence, in comparison to the current appeal these cases would appear to be materially different in that the original buildings had a significantly greater degree of enclosure<sup>5</sup> or the proposal was solely for a change of use with building operations to be addressed by a separate application<sup>6</sup>.
14. For the reasons given above, I conclude that the proposed development would not be permitted development for the purposes of Class Q. On that basis, there is no requirement for me to consider the prior approval matters under paragraph Q.1 of the GPDO.

## Conclusion

15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*David Cross*

INSPECTOR

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<sup>3</sup> Application No: 16/04361/AGTRES

<sup>4</sup> Application No: 16/01665/AGTRES

<sup>5</sup> Appeal refs: APP/J3720/W/16/3158818, APP/H3320/W/16/3163154, APP/P3040/W/16/3165076, APP/J1915/W/17/3169858

<sup>6</sup> Appeal ref: APP/B3410/W/17/3170228