



Appeal Decision

Site visit made on 25 March 2019

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 May 2019

Appeal Ref: APP/N4720/W/19/3219850

Land adjacent to Wheatfields, Tithe Barn Lane, Bardsey, Leeds LS17 9DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 David Cornforth of GE Cornforth and Sons against the decision of Leeds City Council.
 - The application Ref 18/06671/DPD, dated 22 October 2018, was refused by notice dated 18 December 2018.
 - The development proposed is a change of use of agricultural barn to a dwelling.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a change of use of agricultural barn to a dwelling, at land adjacent to Wheatfields, Tithe Barn Lane, Bardsey, Leeds LS17 9DX, in accordance with the terms of the application Ref 18/06671/DPD, dated 22 October 2018, and subject to the conditions listed in Schedule 1.

Application for costs

2. An application for costs was made by Mr David Cornforth of GE Cornforth and Sons against Leeds City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application form did not contain a description of the proposed development and I have therefore used the description on the Council's decision notice, which matches that on the appeal form.
4. The site address on the application form was somewhat unclear. I have therefore amended the address so that it matches that used on the appeal form, but with the addition of the postcode used on the Council's decision notice.
5. A similar proposal to the appeal development was refused¹ by the Council prior to the refusal of the appeal development proposal. The previous refusal was also subject to an appeal. Notwithstanding this other appeal, which was

¹ LPA Ref 18/04221/DPD

determined by another Inspector, I have determined the appeal before me on the submitted evidence and on its individual merits, as set out below.

6. Two of the plans specified in the Council's officer report and on the appeal form are inconsistent with each other. The proposed eastern elevation on drawing DC005 shows no openings, whilst the proposed Ground Floorplan on drawing DC007 shows glazing and French doors on that same elevation.
7. I sought the views of both main parties on this matter. Both parties acknowledged the inconsistency. The appellant has confirmed that the proposed elevations on DC005 are correct and has provided an amended floorplan drawing DC007 Rev B, which is consistent with DC005. Whilst the revised floorplan drawing is necessarily different to the one that the Council listed, I am satisfied that it does not significantly change the proposal, and that no one is disadvantaged by the submission of drawing DC007 Rev B.

Main Issue

8. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), having particular regard to the requirements of Paragraphs Q (b) and Q.1.(i) in relation to works reasonably necessary for the building to function as a dwellinghouse.

Reasons

9. Class Q of the GPDO concerns a change of use of a building and any land within its curtilage from a use as an agricultural building to a dwellinghouse.
10. Paragraph Q (b) specifies that the building operations reasonably necessary to convert the building to a dwellinghouse use would be permitted development, whilst Paragraph Q.1.(i) provides further detail as to what such building operations would be. These include the installation or replacement of windows, doors, roofs or exterior walls, or water, drainage, electricity, gas, or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.
11. The Council has drawn my attention to the case of *Hibbitt & another v SSCLG & Rushcliffe Borough Council* [2016] EWHC 2853 (Admin) (the Hibbitt case). The Hibbitt case concerns a Class Q proposal and, amongst other things, explores the distinction between works required for the *conversion* of an existing agricultural structure or building to a dwellinghouse, and works amounting to its rebuilding or, in effect, the creation of a new building.
12. Planning Practice Guidance² (PPG) has been updated in relation to Class Q of the GPDO since the Hibbitt case, but still advises that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. It also states that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. This is a matter of fact and degree and requires an element of judgement.

² Paragraph: 105 Reference ID: 13-105-20180615 Revision date: 15 06 2018

13. The appeal building has a rectangular shape, with a pitched roof and two gable ends. The roof ridgeline is some 5.1 metres above the ground, with an eaves height of some 3.6 metres. The roof is constructed of fibre cement roof cladding and is supported by a steel framework. A concrete block wall forms the lower part of the four sides of the building, with two broad, full-height openings on the southern elevation, containing metal panel gates. Above the block walls are vertical timber panels with narrow gaps between to provide ventilation.
14. The proposed development would create a 2-storey, 3-bedroom detached dwelling. The existing ground floor blockwork walls would be retained, together with the vertical timber boarding at upper floor level and the fibre cement roof, and no extension to the footprint is proposed. New 2-storey internal walls would be constructed within the blockwork walls and timber boarding. An upper floor mezzanine level would also be constructed and new windows would be installed on the northern, southern and western elevations, with a new doorway to the north. The two openings on the southern elevation would be filled with glazing, including French doors, with timber boarding to match the existing above. Two car parking spaces would be provided to the west of the building, using the existing access serving the next door property, *Wheatfields*. A small garden area to the south of the building is also shown on the plans.
15. The Council states that the appeal building cannot currently be occupied as a dwelling and the extent of works required to enable it to be so, would be beyond what would be reasonably necessary for a conversion. The Council states that the upper floor parts of the new 2-storey internal walls would amount to *a considerable degree of fundamental new building works on all four elevations*. The Council is also concerned that internal structural works may be needed to support an upper floor mezzanine level.
16. It is not disputed that the appeal building cannot currently be occupied as a dwelling or that new walls would be constructed within the existing blockwork walls / timber boarding on all four elevations. At upper floor level, as a result of the open timber boarding, these walls would have a similar function to exterior walls, despite being internal features. However, they do not affect the structure or external appearance of the barn and in my view, they would be reasonably necessary in order to protect future occupants from the weather.
17. Various other internal walls and a staircase to the upper floor mezzanine level are also shown on the submitted drawings, consistent with the conversion of the building to a dwellinghouse. A structural report accompanied the previous planning application referred to above³, as well as the proposal that is the subject of this appeal. It states that *a satisfactory conversion of the barn to living accommodation can be carried out, all structural framing as existing being incorporated into the scheme, such that there will be no structural alterations made to the existing structure*. No substantive evidence has been presented to cause me to question the content of the submitted structural report.
18. In any event, PPG states that internal works are not generally development and that the installation of exterior walls would be a type of building operation that may be reasonably necessary for a conversion. PPG also advises that new

³ LPA Ref 18/04221/DPD

internal structural works, including to allow for the insertion of a mezzanine or upper floors may be appropriate. From the information before me the proposed works would accord with the guidance contained in PPG with regard to Class Q of the GPDO.

19. For the reasons given above, with particular regard to the requirements of Paragraphs Q (b) and Q.1.(i) of the GPDO, the proposed works to convert the building to function as a dwellinghouse would be reasonably necessary. Consequently, the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

20. The Council's officer report references text from PPG: *It is not the intention of the permitted development right to include the construction of new structural elements for 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 rights.*
21. However, this text from PPG is out of date. It is not listed in the current Class Q guidance at the aforementioned Paragraph 105 of PPG and I have not therefore had regard to it.
22. Reference is made to three other Class Q prior approvals in Leeds. I am not fully familiar with these cases, and in any event, I have determined this appeal on its individual merits, on the basis of the submitted information and my observations on site, and with appropriate regard to legislation and Government guidance.
23. A number of comments were made by third parties in relation to the application, including similarities with a previous application; nearby approved developments; potential future proposals; interpretation of the GPDO; the location within the Green Belt and a Special Landscape Area; and Neighbourhood Plan policies.
24. I have addressed the points raised concerning the interpretation of the GPDO in my reasons above. The GPDO grants planning permission within specified parameters; none of the other points raised affect whether the appeal proposal is permitted development under the GPDO.

Conditions and Conclusion

25. Paragraph Q.2.(3) of the GPDO states that Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.
26. Paragraph W (13) of the GPDO states that prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Council has suggested a number of conditions which I have considered in light of this and Government guidance.
27. With regard to Section 100ZA (5) of the Town and Country Planning Act 1990, the appellant has given their written agreement to the pre-commencement conditions attached to this decision.

28. A condition specifying the approved drawings would be necessary for reasons of certainty.
29. Conditions concerning foul water discharge and surface water drainage works would be necessary to protect the living conditions of future and nearby occupiers.
30. Conditions concerning contaminated land investigations and where needed remediation works would be necessary to protect the living conditions of future occupiers.
31. A condition concerning the approval of soil brought to the site would not be necessary to protect the local environment, future and neighbouring occupiers.
32. Conditions concerning the provision of vehicle parking areas or facilities would not be necessary given the specified drawings condition and the current use of the land. Conditions concerning electric vehicle charging points would not be necessary in order to make the development acceptable in planning terms.
33. A condition concerning a feasibility study into infiltration drainage methods would also not be necessary to make the development acceptable in planning terms.
34. For the reasons given above and taking all matters raised into account, I conclude that the appeal should be allowed.

Andrew Parkin

INSPECTOR

Schedule 1 – Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: DC001; DC003; DC005; and, DC007 Rev B.
2. There shall be no discharges of foul water from the development until a foul drainage scheme including details of provision for its future maintenance (e.g. adoption by the Water Company) has been implemented in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
3. Development shall not commence until a scheme detailing surface water drainage works has been submitted to and approved in writing by the Local Planning Authority (Drainage plans and summary of calculations and investigations). The works shall be implemented in accordance with the approved scheme before the development is brought into use.
4. No development shall commence until a Phase I Desk Study has been submitted to, and approved in writing by, the Local Planning Authority and:
 - (a) Where the approved Phase I Desk Study indicates that intrusive investigation is necessary, development shall not commence until a Phase II Site Investigation Report has been submitted to, and approved in writing by, the Local Planning Authority.
 - (b) Where remediation measures are shown to be necessary in the Phase I/Phase II Reports, development shall not commence until a Remediation Statement demonstrating how the site will be made suitable for the intended use has been submitted to, and approved in writing by, the Local Planning Authority. The Remediation Statement shall include a programme for all works and for the provision of Verification Reports.
5. If remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the Local Planning Authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to, and approved in writing by, the Local Planning Authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised approved Statement.
6. Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works, the Verification Report(s) shall be submitted to the Local Planning Authority in accordance with the approved programme. The site or phase of a site shall not be brought into use until such time as all verification information has been approved in writing by the Local Planning Authority.