The Planning Inspectorate

Appeal Decision

Site visit made on 18 June 2019

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2019

Appeal Ref: APP/E2530/W/19/3225069
Barn situated at 38 Spalding Road, Bourne, Lincolnshire PE10 0AU

- 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 J Stubbs against the decision of South Kesteven District Council.
- The application Ref S18/2228, dated 28 November 2018, was refused by notice dated 29 January 2019.
- The development proposed is conversion of barns to form 1(No.) one bedroomed dwelling.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for conversion of barns to form 1(No.) one bedroomed dwelling at Barn situated at 38 Spalding Road, Bourne, Lincolnshire PE10 0AU in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2 (1) of the GPDO through application Ref S18/2228, dated 28 November 2018. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with paragraph Q.2 (3) of the GPDO and subject to the following additional conditions:

   (1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 1:1250 MSP.1536/001, Block Plan 1:500 Drawing No 2/5 and Proposed Plans and Elevations Drawing No 2/3 B.

   (2) Before development to facilitate the change of use hereby approved commences, precise details of the materials to be used to the external elevations of the building shall be submitted to and approved in writing by the Local Planning Authority. Once approved in writing, the development shall only be undertaken in full accordance with the approved materials.

   (3) If, during development, contamination not previously identified is suspected to be present at the site, then all works must stop and the Local Planning Authority notified immediately. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with current good

practice and legislation with details submitted to and approved in writing by the Local Planning Authority. Any necessary remediation shall thereafter be implemented. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority.

(4) The development hereby approved shall incorporate the flood mitigation measures set out at Paragraph 30 of the Statement Accompanying Prior Approval Submission (November 2018).

Background and Main Issue

2. Schedule 2, Part 3, Class Q (a) and (b) of the GPDO permits development consisting of a 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 of the Use Classes Order (UCO); and building operations reasonably necessary to convert the building to a use falling within Class C3 of the UCO.

3. Q.1(i) of the GPDO states it is also not permitted if the development under Class Q (b) would consist of building operations other than (i) the installation or replacement of (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.

4. The main issue is whether the proposal satisfies the requirements of the GPDO with regard to being permitted development for a change of use from an agricultural building to a dwelling house (Use Class C3), having particular regard to the requirements under Class Q.1 (i).

Reasons

5. The building consists of a main barn which is two-storeys in height and to the east of this an attached single storey barn. The main barn has a steel frame with corrugated fibre-cement sheet cladding to its external elevations and roof. The single storey barn has a variety of cladding and roofing materials and is open sided to the south facing elevation.

6. Paragraph 105 of the Planning Practice Guidance (PPG) sets out the building works permitted under Class Q to facilitate a change of use from an agricultural building to a residential use. It confirms the right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building. This includes amongst other things the installation of windows, doors, roofs and exterior walls to the extent reasonably necessary for the building to function as a dwelling house.

7. The works proposed to facilitate the change of use include the replacement of the existing cladding with timber cladding, the provision of a first floor, the raising of the ground floor level by 300mm above the existing level and the formation of new window and door openings to provide habitable space within the larger barn. The existing open fronted building would be utilised for garaging.

8. The structural report provided by the appellant confirms that a visual inspection was undertaken. The report notes the roof, wall cladding, steelwork frame and concrete slab of the larger barn were all in very good condition with no signs of

leaks and only slight surface rusting to the steelwork frame. The two-storey barn is enclosed to all sides and the assurances in the structural report indicate that the building is of substantial construction and in sound condition. These are characteristics which make it capable of conversion to residential use. The smaller attached barn was also observed as being structurally stable. This confirms what I saw on site in that the barns appeared to be of sound construction.

9. The Council contend that the barns are not capable of conversion without significant new structural elements. The structural report confirms that the proposed first floor would be constructed of a load-bearing timber frame off the existing concrete floor. The recommended trench fill footings would be an integral part of the new ground floor of the building which in turn would ensure the building would be damp proof and to seal it against vermin. The evidence before me confirms these works are not required to improve the structural integrity of the overall building. The PPG states that internal works are not generally development and it may be appropriate to undertake internal structural works including to allow for a floor and for the insertion of upper floors as is the case with the new floors and trench fill footings in this instance. For the reasons set out, I am persuaded that these particular works would be permitted development under Class Q and are reasonably necessary, so that flood risk is mitigated and the building is able to function as a dwelling house.

10. The structural report advises the cladding to the main barn is nearing the end of its life when it would start to become brittle and crack. Nevertheless, in theory the existing cladding could be utilised given its current condition. Whilst there are existing openings on the building, it is clearly necessary for additional windows and doors to be provided to enable the building to function effectively as a dwelling. I acknowledge that full replacement of the existing cladding would be a fairly extensive building operation. However, I consider in this particular instance, given the substantial construction and sound condition of the existing building, the replacement materials would be a practical and preventative solution to replace the ageing cladding and would be a reasonably necessary measure.

11. My attention has been drawn to Hibbitt, and Another v Secretary of State for Communities and Local Government, and Rushcliffe Borough Council [2016] EWHC 2853 (Admin) (9 November 2016). In that particular case, the building had open sides. I do not find that case directly comparable to the barns before me which are enclosed other than one side of the single storey element proposed to be used as a garage. The Hibbitt case determined that it is a matter of legitimate planning judgement as to where the line is drawn between conversion and a rebuild. In this case the form and structure of the building would be retained and existing cladding which encloses the building and makes it suitable for habitation would be replaced. In my judgement, the works in this case could not be described as starting afresh and the underlying structure and concrete base would continue to form a fundamental part of the dwelling.

12. The Council has also referred to a recent appeal decision Ref APP/E2530/W/18/3216344 in support of its interpretation of the extent of works permitted under Class Q. I acknowledge that the Inspector in that case noted that more substantial wall and roof coverings, new openings and a first floor would be installed. However, the appeal was dismissed on the grounds that there was no substantive evidence to demonstrate that the building was

capable of accommodating the loading of the building works proposed without major new structural works and not because the extent of replacement wall and roof cladding went beyond what could be considered reasonably necessary for the building to function as a dwelling house.

13. Clearly the case involves matters of judgement. The structural report provided confirms that the building is easily convertible to residential accommodation. I note that structural works are limited to internal works to accommodate a first floor in line with the PPG. I have no contrary evidence before me to dispute the conclusions of the report which has been produced by a qualified structural engineer. On this basis, I am satisfied that the concrete slab and steel frame would provide an underlying structure which forms a fundamental part of the new dwelling. No new structural elements would be required to facilitate the changes to the external appearance of the building. I am satisfied that the building operations would be in line with those confirmed as appropriate in the PPG and would only be to the extent reasonably necessary for the building to function as a dwelling house.

14. The fact that the proposal is acceptable in terms of assessment against all remaining criteria under Class Q.1 is not disputed and I am also satisfied the proposal meets the appropriate qualifying criteria.

Other Matters

15. No evidence has been presented that the proposed development would result in any significant transport and highway, noise, contamination or flood risks issues nor that the location or siting of the building makes it otherwise impractical or undesirable for the building to change use. Given the agricultural nature of the land and building, I agree with the Council's Environmental Protection Section that there may be a need to address any contamination found during works to facilitate the change the use of the barns. Furthermore, the measures to mitigate flood risk recommended in the appellant's Flood Risk Assessment (FRA) and confirmed in the Statement Accompanying Prior Approval Submission (November 2018) would also need to be provided. In both cases, I am satisfied these matters could be addressed by conditions.

16. The proposal would therefore be acceptable in terms of matters (a), (b), (c), (d) and (e) of Paragraph Q.2(1) of Part 3 of Schedule 2 of the GPDO. The proposed dwelling would successfully utilise the shape and form of the existing building and integrate suitable materials to provide a dwelling of acceptable design and external appearance. I am satisfied it does not raise issues that require further assessment and therefore the proposal also meets matter (f).

Conditions

17. Section W (13) of Part 3 of Schedule 2 of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

18. The parties have not provided any suggested conditions. I consider it would be reasonable and necessary to attach a condition confirming the approved drawings in the interests of certainty. The submitted drawings confirm that the proposed cladding is to be timber with details to be agreed with the Council. Given the cladding forms an integral part of the works to be undertaken, it is

reasonable and necessary to attach a pre-commencement condition requiring the details of this cladding to be agreed in writing with the Council to ensure the materials utilised respond positively to the character and appearance of the area. The aforementioned conditions to deal with any contamination found on the site as well as implementation of the proposed flood mitigation measures are necessary to ensure matters relating to contamination and flood risk are effectively dealt with as part of the proposed change of use.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed.

M Russell

INSPECTOR