The Planning Inspectorate

# Appeal Decision

Site visit made on 10 September 2019

**by Matthew Jones BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 October 2019**

**Appeal Ref: APP/Y1138/W/19/3231918**
**Whipcott Heights, Lane Past Higher Whipcott Farm, Holcombe Rogus, Devon TA21 0NA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior 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 and Mrs Mike Gallagher against the decision of Mid Devon District Council.
- The application Ref 19/00460/PNCOU, dated 19 March 2019, was refused by notice dated 14 May 2019.
- The development proposed is conversion of existing open fronted barn to single storey dwelling, with associated external works. Retention of existing wall cladding and roof sheeting.

## Decision

1. The appeal is dismissed.

## Procedural Matters

2. A small 'mock-up' of the proposed internal walling arrangement was in situ at the time of my visit. However, I determined the appeal on the basis of the plans and drawings upon which the Council made its decision.

3. Although the plans show the creation of a new vehicular access and driveway, the works fall outside of the red line of the appeal site, which is served by an existing access. The proposed access was not therefore a determinative matter in the appeal.

## Main Issue

4. The main issue is whether or not the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (Amendments and Consequential Provisions) (England) Order 2015 (GPDO).

## Reasons

5. The appeal relates to a steel framed agricultural building. Open fronted, the other three sides are formed of a low wall of horizontal close boarded timber below vertical timber boards. The vertical boards have a gapped placement, which leads the building to have a permeable and somewhat insubstantial appearance. It is roofed in cementitious sheeting and has a concrete floor.

6. Although Class Q accepts that the installation or replacement of windows, doors, roofs or external walls can be allowable, its overarching provision states that to be permitted development the building operations must be reasonably necessary to 'convert' the building. Pursuant to the case law referenced by both parties[1] (Hibbit), if the works go beyond what would amount to a 'conversion', then the development would fail at the first hurdle. In addition, the Planning Practice Guidance (the PPG) 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.

7. The appellant has submitted a report which shows that the existing frame is strong enough to be retained, and the plans and sections show that the timber clad walls would be incorporated into the scheme. However, the existing cladding is intentionally insubstantial to allow ventilation. In order to substantiate and solidify these walls, it is proposed to comprehensively affix external quality ply sheeting to the inside edge of the vertical cladding. This would fill the visible gaps between the boards and appears essential in order to create a ventilated void between the external and new internal walls.

8. Therefore, although the existing timber would be retained, the walls require fundamental alteration in order to provide a building suitable for human habitation. Given that a new glazed wall is also proposed across the principal elevation, the scheme would, in practical reality, introduce new structural elements across all four elevations of the building. This is in addition to the three new internal walls which would provide loadbearing support to a new ceiling. A new screed floor would also be laid, which the evidence identifies would provide some mitigation to the additional load placed on the building. This is seen together with the other work, including strengthening of the horizontal rails and purlins, and the insertion of windows and a set of French doors.

9. I accept that the works set out within Class Q can, in some cases, be extensive and that, taken in isolation, some of the individual elements of the appeal proposal would be considered to be acceptable. However, it seems to me that the nature and extent of the proposed building operations I have set out above, when considered as a whole, would be of such magnitude as to qualify as a rebuild (or fresh build), thereby falling beyond the scope of the GPDO.

**Other Matters**

10. The appellant contends that, as the cladding would be retained, the works in this case would be less than in Hibbit, and therefore permitted development. It is also suggested that, had the findings of Hibbit been intended for wider application, this would have led to changes to the GPDO. However, the judgment in Hibbit did not seek to prescribe an exact threshold after which the nature of the work changes. This remains a matter of planning judgment, made on the basis of the individual circumstances of the case, and the available evidence.

11. The government is seeking to significantly boost the supply of housing and the proposal would provide a single home. However, the appeal relates to a legal test and therefore this benefit is not germane to my assessment.

[1] Hibbitt & Anor v Secretary of State for Communities & Local Government & Ors [2016] EWHC 2853 (Admin)

## Conclusion

12. The proposal would exceed the overarching requirements of Paragraph Q (b) and would not meet the requirements of Paragraph Q.1(i) of the GPDO.

13. For the reasons set out above, I conclude that the proposal would not be permitted development under the provisions of Class Q and the appeal should be dismissed.

*Matthew Jones*

INSPECTOR