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## Appeal Decision

Site visit made on 29 October 2019

**by Helen O'Connor LLB MA MRTPI**

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

**Decision date: 05 November 2019**

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**Appeal Ref: APP/J1860/W/19/3234566**

**Archfield Farm, A456, Newnham Bridge, Tenbury Wells WR15 8NX**

- 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 (as amended) (the Order).
  - The appeal is made by Mr Milman against the decision of Malvern Hills District Council.
  - The application Ref 19/00652/GPDQ, dated 29 April 2019, was refused by notice dated 5 July 2019.
  - The development proposed is the change of use of an agricultural building to 4 dwellinghouses and for associated operational development.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. In my heading above I have used the description of development from that given in the appeal form as that used in the original application form simply refers to the submitted plans and planning statement.

### Main Issue

3. The main issues are:
  - Whether the proposal would be permitted development, with particular regard to whether the requirements of Class Q(b) of the Order would be met with reference to the extent of the proposed building operations, and;
  - If so, whether or not prior approval would be required in relation to the design or external appearance of the building in accordance with the condition set out in paragraph Q.2(1)(f) of the Order.

### Reasons

*Whether the proposal would be permitted development under Class Q(b)*

4. Class Q(b) of the Order permits building operations reasonably necessary to convert the relevant building to a use falling within Class C3. It further states at paragraph Q.1(i) that development under Class Q(b) is not permitted if it would consist of building operations other than 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.

5. The agricultural building in question is a large<sup>1</sup>, single storey, portal framed structure, although the lean-to bays on the eastern side of the building would be removed as part of the proposal. The side elevations in part comprise blockwork with vertical timber cladding or timber boarding above. The southern end elevation has a large opening which is partially enclosed by gates with the opposite end elevation comprising a mixture of timber boarding and openings. The asbestos cement fibre roofing includes a series of translucent panels that act as rooflights.
6. The structural report information indicates that the proposed development would retain the steel frames and foundations which would be structurally adequate to support the loadings arising from a residential conversion without the need for underpinning, and I have no evidence to the contrary. Whilst I accept that the structural report does not go into great detail regarding the proposed building operations, it is stated by the structural engineer that existing blockwork and cladding are suitable to be incorporated into a scheme to convert the building<sup>2</sup>. The proposed plan<sup>3</sup> refers to the existing blocks being painted which confirms that this original fabric is retained.
7. However, whether the proposal would retain the existing timber cladding is less clear. The appellant unequivocally states<sup>4</sup> that *'The submitted plans demonstrate that the existing block work walls and cladding above are to be retained, together with the steel frame. The submission confirms that these elements are to be retained as part of the proposed conversion.'* However, the proposed timber cladding on the elevation plan is labelled as natural colour cedar cladding whereas the existing timber boarding is in poor condition and the vertical 'hit and miss' timber cladding is not cedar and has gaps so would not be weatherproof. As such, although timber cladding would feature as part of the appeal proposal, the evidence suggests that this would not retain the original fabric. In addition, the roof covering would be replaced with metal sheeting, there would be infilling to the large openings in the end elevations and new windows and doors would be inserted into all four elevations.
8. Planning Practice Guidance (PPG)<sup>5</sup> advises that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling, clarifying that it is not the intention of the permitted development right in Class Q(b) to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. In this respect the PPG refers to relevant case law<sup>6</sup> to which I have had regard.
9. The caselaw established that Class Q(b) only permits building operations necessary to convert the building, and therefore if a development does not amount to a conversion then it fails at the first hurdle. Furthermore, whether a

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<sup>1</sup> Page 2, Report by Deco Structures Ltd, Project 1753 dated August 2018, measuring approximately 36m in length, 9m in width and 4.1m to roof ridge.

<sup>2</sup> Page 3, Conclusion Addendum Report on Inspection of Agricultural Barn, Deco Structures Ltd

<sup>3</sup> Proposed Plan and Elevations, zeb1185 102 Rev B, August 2018

<sup>4</sup> Paragraph 4.11 Appeal Statement AddisonRees Planning Consultancy, August 2019

<sup>5</sup> Paragraph 105 Reference ID: 13-105-20180615 revision date 15.06.2018

<sup>6</sup> *Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin)

proposal constitutes a conversion or a rebuild is a matter of planning judgement and the nature and extent of the proposed building operations are a relevant consideration in making that assessment.

10. I accept that the proposed works to change the use of the building to dwellings suitable for habitation would be considerable. Nevertheless, I have not seen evidence that the proposed works would fall outside the scope of those listed in paragraph Q.1(i). Furthermore, the structural frame, foundations and much of the concrete block walling retains original fabric of the building to a degree such that the proposal could reasonably be described as a conversion of the original building as opposed to a fresh build. Moreover, the building operations would be to an extent necessary to make the building weatherproof and suitable for human habitation.
11. The detailed circumstances in relation to the proposal before me differ from those of the building considered in the Hibbitt case, in that the building, although steel framed, was largely open sided and involved the construction of four exterior walls. As such, the case before me would retain a greater degree of original building fabric. In any event, I am required to reach my own judgement based on the proposal, my own observations and the evidence before me.
12. From the information provided, the Council did not find any breach of the limitations at paragraph Q1 (a)-(h) and (j)-(m). I find no reason to disagree with the Council in respect of those matters. It follows that on the evidence provided, that the proposal would fall within the requirements of Class Q(b) of the Order such that the building would benefit from the permitted development rights under Schedule 2, Part 3, Class Q(b) of the Order subject to the conditions set out in paragraph Q2 of the Order.

*Paragraph Q.2(1)(f) design or external appearance of the building*

13. Paragraph Q.2(1) requires a determination as to whether prior approval will be required for, amongst a series of matters, the design or external appearance of the building. In this case the Council consider that prior approval is necessary and that it should not be given in relation to this matter, predominantly due to the nature and number of windows and doors that would be introduced.
14. In relation to the procedure to be followed, paragraph W(10)(b) of Part 3 of the Order states that regard must be given to the National Planning Policy Framework (the Framework) issued by the Department for Communities and Local Government in March 2012 so far as is relevant to the subject matter of the prior approval. Notwithstanding that the Framework has subsequently been revised, the wording of the effective part of the Order cites the 2012 version of the Framework.
15. Section 7 of that version confirmed that the design of the built environment is of great importance and paragraph 58 stated that planning decisions should, amongst other matters, aim to ensure that development responds to local character, reflects the identity of local surroundings and materials and is visually attractive as a result of good architecture and appropriate landscaping. In this respect, it is not significantly different from some of the criteria in paragraph 127 of the current Framework<sup>7</sup> to which I have also had regard.

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<sup>7</sup> National Planning Policy Framework, February 2019

16. The existing building is a large scale, reasonably modern structure and its design and appearance is typical of such portal framed buildings often seen within agricultural settings. Although not of significant architectural merit, its simple form, limited detailing and rudimentary appearance reflect its agricultural function. As such, it is commensurate with, and assimilated into, the surrounding rural context.
17. A series of regularly spaced windows and doors would be introduced within the longer elevations of the building. The doors and windows which sit within metal cladding would have a vertical emphasis in a contemporary style. This would contrast with the greater number of casement windows and French doors which would incorporate arched heads or arched scorched cedar cladding surrounds. These factors would have a domestic scale and appearance resulting in a horizontal emphasis that, together with their regular placement, would strike a discordant note at odds with the simplicity and rudimentary form of the functional building. Furthermore, it would visually clash with the vertical emphasis of the more contemporary approach to fenestration, also used in the shorter end elevations.
18. I have had regard to examples<sup>8</sup> of recent residential conversions of former agricultural buildings under permitted development rights to which the Council did not object. In relation to the four examples where the approved plans were provided, these did relate to larger scale modern agricultural buildings and so are of some relevance. Nevertheless, in contrast to the scheme before me, those proposals utilised existing openings to a greater degree, and the limited new openings were of a more contemporary character that complimented the form of the building. There was little evidence of domestic casement style windows being employed.
19. Reference is made to the farmhouse at Archfield Farm adjacent to the building. However, this purpose-built dwelling is not a result of a conversion and is of a significantly different scale and form. Therefore, it does not provide an appropriate reference point for design detailing. I am further referred to a converted barn to the east<sup>9</sup> on the opposite side of the road some distance from the appeal site. Nevertheless, based on the limited information provided I am unable to make a meaningful comparison with the circumstances of the proposal before me, and therefore this is of limited weight. In addition, I have not seen evidence to substantiate the assertion that fewer windows and doors would prevent the development from meeting building regulation standards, nor that the appeal proposal would be the only way of doing so.
20. Therefore, as a result of the proposed fenestration, the development would have an incoherent mix of detailing as part of its external appearance, which would be unacceptably harmful to the agricultural character of the building and the local surroundings contrary to relevant design advice in the Framework. Accordingly, I find that prior approval is required for the design and external appearance of the building under condition Q.2(1)(f) of the Order and should be refused.

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<sup>8</sup> Referenced 19/00090/GPDQ; 19/00241/GPDQ; 19/00504/GPDQ; 19/00688/GPDQ & 19/00684/GPDQ

<sup>9</sup> Paragraph 4.12, Appeal Statement AddisonRees Planning Consultancy, August 2019

## **Conclusion**

21. For the reasons given above, I conclude that the proposed design and external appearance of the building would be unacceptably harmful and therefore, the appeal should be dismissed.

*Helen O'Connor*

Inspector