



Appeal Decision

Site visit made on 14 October 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2019

Appeal Ref: APP/P1133/W/19/3220824

Quarry Farm, Stancott, Chudleigh, South Devon TQ13 0DN

- 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 Christopher Burton against the decision of Teignbridge District Council.
 - The application Ref 18/01930/NPA, dated 18 September 2018, was refused by notice dated 15 November 2018.
 - The development proposed is conversion of agricultural buildings to residential use under Class Q of the GPDO 2015 (as amended).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Christopher Burton against Teignbridge District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. During the appeal site visit, I noted that an office building had been constructed within Barn B. The building was built on top of the concreted section of the barn's floor and its roof sat well below the internal level of the roof of the barn. The walls were constructed from timber, one of which was built against a number of the barn's internal stanchions. Otherwise, the office appeared to be a freestanding 'box-like' structure. I have no details from either party as to whether the recently constructed office building is considered to constitute a lawful start of the prior approval¹ given under Schedule 2, Part 3, Class R of The Town and Country Planning (General Permitted Development) (England) (GPDO) Order 2015.
4. The GPDO 2015 was amended by virtue of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 which allows for agricultural buildings of a greater floor area to be considered under Class Q and/or for a higher number of dwellings to be formed than in the 2015 GPDO. I have noted the relevance of this amendment in relation to the subject appeal.

¹ 18/01934/NPA

Main Issues

5. The main issues are:

- whether the location and siting of the buildings makes it impractical or undesirable to change them to Class C3 dwellinghouses, in terms of the effect on the living conditions of future occupiers; and
- whether the proposal under Class Q.1(i)(i) would consist of building operations that exceed those permitted as reasonably necessary for the buildings to function as dwellinghouses.

Reasons

Impractical or undesirable

6. Paragraph Q.2(2) of the GPDO requires prior approval of five matters. These are: (a) the transport and highways impacts of the development; (b) noise impacts; (c) contamination risks; (d) flooding risks; and (e) whether the location or siting of the buildings makes it otherwise impractical or undesirable to change them from agricultural uses to dwellinghouses.
7. The Council indicate that the barns are situated in close proximity to unrestricted buildings outside of the appellant's ownership that may be used for more intensive farming operations. The submitted plans appear to show the red line enclosing the appeal buildings and a blue line denoting other land within the ownership of the appellant but excluding the two buildings between the appeal site and highway.
8. Despite limited evidence to this effect, the appellant claims that he owns the agricultural buildings adjoining the appeal site and that their agricultural use ceased earlier in 2019. From the evidence, the appellant has no intention of resuming the agricultural use of the buildings and this could be prevented by way of a planning condition. Subject to the use of such a planning condition to require the cessation of agricultural or other potentially harmful uses of the adjoining agricultural buildings, the potential for harm to the living conditions of future occupiers would be avoided.
9. On this basis and subject to the imposition of a planning condition as described above, I conclude that the location and siting of the appeal buildings would not make it impractical or undesirable for the proposed change of use to Class C3 dwellinghouses in regard to the living conditions of future occupiers.

Extent of building operations

10. Schedule 2, Part 3, Paragraph W of the GPDO requires that prior approval applications must be submitted with a plan indicating the site and showing the proposed development and that the Local Planning Authority may require the developer to submit such information as may reasonably be required in relation to the proposed building or other operations.
11. In this case, the proposal involves two buildings, Building A and Building B. Both buildings have a similar portal frame structure with one open sided elevation facing towards one another into the central yard. Approximately two thirds of their elevations are enclosed with either horizontal timbers and timber cladding.

12. The proposal would involve creating five separate residential units within the two buildings. A separate application to convert parts of the buildings under Class R of the GPDO has been approved² which seeks to create commercial units adjoining the residential units. The intention is to create five 'live/work' units utilising the GPDO Classes Q and R together.
13. The proposal is described as involving the retention of the structural frames, roof, foundations and walls. The submitted structural reports suggest that the frames of the buildings are sufficiently robust to withstand the additional loadings from the cladding of all external walls, the insertion of large elements of glazing and insulation of the roofs.
14. Building B would accommodate two live/work units, detached from one another. There would be some void space in between them and to the eastern end. Building A would accommodate three live/work units with some void space in between the separate units. The walls of the proposed units do not appear to tally with existing structural components of the existing buildings.
15. From the description of the proposal, it would appear that it would also involve utilising timber frame panels, which it is stated would be similar to that of a new timber framed residential dwelling. From the way in which the units would be laid out, it would appear that the timber frame components would place little reliance on the structural components of the existing buildings, but would rather just be constructed as standalone boxes within the envelopes that they would form. This suggests that the works proposed go beyond that considered reasonably necessary.
16. The envelopes that would be formed by the buildings would also enclose the commercial spaces proposed under the separate Class R approval and the void spaces as well. For this specific reason, the proposal involves works that go beyond the extent reasonably necessary for the buildings to function as dwellinghouses.
17. I have been referred by the appellant to the Hibbitt³ High Court judgement. That judgement upheld an inspector's Class Q decision which found that the reuse of a structurally sound steel frame but little else of that particular original building went beyond that reasonably necessary for the building to function as a dwelling. There is a notable difference between the current proposal and the Hibbitt case, insofar as it relates to the commercial and void spaces, but there are some parallels in relation to the principle of the use of only minimal components of existing buildings in their conversion to new dwellings.
18. The appellant indicates that small areas of the existing barns are to be demolished in order to achieve the 'detached' nature of each live/work unit and that this aspect may have been misunderstood by the Council. As the submitted elevation and roof plans show two complete buildings and there are only internal stanchions to demolish otherwise, it is not clear how such detachment is to be achieved, other than if the units are to become 'box-like' structures within the buildings as suggested above.
19. Accordingly, for the reasons set out above, this proposal would not meet the criteria set out in relation to Class Q.1(i)(i) and is not permitted development.

² 18/01934/NPA

³ Hibbitt and another v Secretary of State for Communities and Local Government and another [2016] EWHC 2853 (Admin)

Conclusion

20. Although I have found that the use of the buildings for residential purposes would not be impractical or undesirable, it would consist of building operations that go beyond that reasonably necessary for the buildings to function as dwellinghouses, and therefore conflicts with Class Q.1(i)(i) of the GPDO. Therefore, the proposal is not permitted development but one for which an application for planning permission is required.
21. For the reasons set out above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Hollie Nicholls

INSPECTOR