



---

## Appeal Decision

Site visit made on 5 November 2019

**by M Allen BSc (Hons) MSc MRTPI**

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

**Decision date: 15 November 2019**

---

**Appeal Ref: APP/L3625/W/19/3233007**

**Nicola Farm, 37 Woodmansterne Lane, Banstead, Surrey SM7 3HA**

- 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 appeal is made by Paul Hunt Investments Ltd against the decision of Reigate & Banstead Borough Council.
  - The application Ref 19/00524/PAP3Q, dated 12 March 2019, was refused by notice dated 30 April 2019.
  - The development proposed is described as "The proposal seeks to convert the existing barn to provide 3 dwellings including associated parking under of the General Permitted Development Order 2015 Schedule 2 Part 3, Part Q. The location will remain the same within the overall site, using the existing structure. Some of the existing barn is proposed to be demolished."
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case 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 (the GPDO).

### Reasons

3. Class Q permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses), as well as building operations reasonably necessary to convert the building.
4. Paragraph Q.1.(i) defines the building operations which can be undertaken. It states that development is not permitted if it 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; and (ii) partial demolition to the extent reasonably necessary to carry out building.
5. The Planning Practice Guidance (PPG) at paragraph 105 advises 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. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
6. The existing building comprises a steel framed barn, consisting of three bays, set on a concrete base. The building has an external wall to one side only, with two sides open to the adjacent yard and the remaining side open to the remainder of the building. From my observations, the frame itself appeared to be in a good condition and there is no suggestion that it will need to be replaced.
  7. However, I am conscious that in order to facilitate the proposal, the existing roof covering would be removed and replaced, the single external wall would be removed and replaced, and three new external walls would be constructed, following demolition of the remainder of the building to the rear. In terms of the roof, there is currently a corrugated sheeting roof supported by the existing steel structure, which also contained a small number of cross beams between the more structural steel. The application form states that the roof is to be replaced with slate. In my view, it is not feasible for a slate roof to be supported solely on the existing structure, as it is too open, without more support being installed in the form of battens. No evidence has been submitted to demonstrate otherwise.
  8. The term 'reasonably necessary' is not defined within the GPDO. However, I note that both parties have referred to the *Hibbitt Judgment*<sup>1</sup> in their submissions. This judgement found that there was a distinction between conversion and rebuild, the distinction itself being a matter of planning judgment.
  9. All that would remain of the existing building is the steel frame. Therefore, having regard to the above, given that the scheme would require the installation of three new walls where there are currently none and the replacement of another, as well as the complete removal and replacement of the roof covering, together with additional support works, I find that there would be substantial new elements required in order to provide a building that was suitable for residential occupation.
  10. On the basis of the evidence before me, I find that the proposal would not comply with the requirement that any building operations would only be to the extent reasonably necessary for the building to function as a dwellinghouse, as taken as a whole they would, in my view, comprise rebuild works, not conversion.
  11. The Council contend that the site is in a mixed use, comprising the agricultural building subject of the appeal and the adjacent scaffolding yard, which benefits from a Certificate of Lawfulness. Whilst I note that there is no defining boundary feature between the appeal building and that used for the scaffolding business, it was clear at the time of my site visit that the appeal building is solely used for agricultural purposes. It housed hay which was laid on wooden pallets and there was no sign of the building being utilised to store anything associated with the scaffolding business.

---

<sup>1</sup> *Hibbitt and another v Secretary of State for Communities and Local Government and another* [2016] EWHC 2853 (Admin)

12. Whilst I note that the access is included within the application site and that this is shared with the scaffolding business, I do not consider this of itself sufficient to conclude that a mixed use is occurring. From my observations, the appeal building was clearly used for agricultural purposes, as was the area immediately surrounding it which makes up the application site, other than the access.

### **Other Matters**

13. I note that the appellant makes reference to guidance in respect of HMRC and the imposition of VAT. However, this guidance is prepared for tax purposes and is not reflective of planning considerations. As such, this has little bearing on my decision.
14. I have also had regard to examples cited by the appellant where weatherboarding has been utilised in other barn conversions. Full details of these developments have not been provided and as such I am unable to draw any useful comparisons between those examples and the scheme before me.
15. Comment is made in respect of the delivery of new housing, the performance of the Council in respect of similar applications and the effect of the proposal on the Green Belt. Whilst these matters are noted, they do not influence my consideration of the extent of the works and whether the scheme is permitted development.

### **Conclusion**

16. Whilst I have found that the building is solely in use for agricultural purposes, I have also found that the works that are proposed go beyond that which can be considered to be reasonably necessary for the conversion of the building to residential use. Thus, the proposal would not be permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
17. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

*Martin Allen*

INSPECTOR