



Appeal Decision

Site visit made on 8 October 2019

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2019

Appeal Ref: APP/Z4718/W/19/3232657

Barn adjacent Hey Farm, Holt Head Road, Slaithwaite, Huddersfield, West Yorkshire HD7 5TU

- 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 Mr & Mrs Mark & Allison Lee against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/90967, dated 22 March 2019, was refused by notice dated 14 May 2019.
 - The development proposed is prior notification for change of use from agricultural building to one dwelling and associated operational development.
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Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use from agricultural building to one dwelling and associated operational development at Barn adjacent Hey Farm, Holt Head Road, Slaithwaite, Huddersfield, West Yorkshire HD7 5TU in accordance with the application reference 2019/90967 made on 22 March 2019 and the details submitted with it including drawing numbers: 3265 (0-) 01, 3265 (0-) 02, 3265 (0-) 03, 3265 (0-) 04 and 3265 (0-) 05, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b), paragraph Q2(3) and subject to the following conditions:
 - 1) The dwelling shall not be occupied until 3 parking spaces are provided to serve the development. The spaces shall be provided in the same area of the site within which 2 spaces are shown on drawing. No. 3265 (0-)04 'Proposed Site Layout' and shall have minimum dimensions of 2.5 metres by 5 metres. The spaces shall be marked out and formed by a hardened and drained surface in accordance with the Communities and Local Government and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstruction and available for use as parking spaces thereafter.

- 2) The dwelling shall not be occupied until details of the removal/storage of and access for the collection of waste (foul sewage and domestic waste/recycling) from the dwelling have been submitted to and approved in writing by the Local Planning Authority. The works comprising the approved details shall be provided before the dwelling is first occupied and shall be so retained, free of obstruction and available for use for the removal/storage of waste thereafter.

Preliminary Matter

2. Paragraph X of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) defines the term curtilage for the purpose of Part Q. The submitted plans show an area of land immediately beside and around the building to be used as a garden area for the proposed dwelling. Parking spaces are also shown on an area of land close to the building to be created by the demolition of an implement shed. It does not appear that the curtilage areas proposed for the building exceed the land area occupied by the building itself. The proposed curtilage areas of the building therefore appear to meet the definition set out in paragraph X and I have determined the appeal accordingly.

Main Issue

3. The main issue is whether the proposal is permitted development under Schedule 2, Part 3, Class Q of the GPDO, having particular regard to whether the proposed building operations are reasonably necessary to convert the building to a dwelling.

Reasons

Permitted Development

4. Class Q(b) of the GPDO permits the change of use of a building and any land within its curtilage from a use as an agricultural building to a dwelling together with building operations reasonably necessary to convert the building to a dwelling. Paragraph Q.1(i) states that development 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 dwelling and partial demolition to the extent reasonably necessary to carry out permitted building operations. The Planning Practice Guide (PPG) at paragraph 105 states that it is not the intention to allow rebuilding work which would go beyond what is reasonably necessary and that 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.
5. The existing building has a concrete portal frame and is enclosed on all sides, being built into the hillside at the rear. The external walls are formed by blockwork to a height of approximately 1.8 metres with a combination of corrugated fibre cement sheeting and timber boarding above. The roof is covered in corrugated fibre cement cladding and the building has a concrete floor. A Structural Inspection Report dated June 2018 concludes that the building is structurally sound and that it is suitable for conversion to a dwelling. The findings of the structural report have not been disputed by the Council.

6. The proposed change of use of the building to a dwelling would involve various works to convert it including replacement roof covering; the insertion of new windows and doors, the construction of stone walling and timber cladding; the provision of internal walls and floors and of insulation. It appears from the evidence that the concrete frame, concrete floor, blockwork and timber frame above it would all be retained. Although various alterations are proposed to the building to change its use to a dwelling, based on the evidence before me and as a matter of fact and degree, I am satisfied that the existing building is suitable for conversion, that all of the works proposed to it are reasonably necessary to convert it to a dwelling and that the works would not amount to rebuilding.
7. In reaching this conclusion I have had regard to the findings in Hibbert¹ with regard to the difference between conversion and rebuild and also to the findings of the Inspector who dismissed a previous appeal at the site (Ref APP/Z4718/W/16/3162769). It seems that, in the absence of any technical evidence, the previous Inspector considered that the building would require almost complete demolition and reconstruction to be used as a dwelling. However, as stated, the 2018 structural report has confirmed that the building is structurally sound and no substantial new structural elements are proposed. Consequently, I consider that the concerns of the previous Inspector have been satisfactorily overcome by the proposal.

Prior Approval matters

8. As I have found that the proposal is permitted development, I must now consider the conditions set out in paragraph Q.2., that is whether prior approval is required and ought to be granted in respect of the listed matters (a) to (f). When considering the application, the Council raised no objections in relation to the matters set out at Q.2 (a) to (f), subject to the imposition of conditions regarding parking and waste collection. Having regard to the evidence and from my observations on site, I see no reason to disagree with the Council's conclusions in relation to these matters.

Conditions

9. Any approval granted for the change of use of a building and any land within its curtilage from a use as an agricultural building to a dwelling under Article 3(1) and Schedule 2, Part 3, Class Q is subject to the condition Q2(3) which specifies that development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.
10. In addition to the standard condition, I have also imposed conditions regarding parking and waste collection details. This is in order to ensure that the highways and transport impacts of the development are acceptable and in order to ensure that suitable drainage and waste collection is provided having regard to the position of the building in a reasonably remote location. Where necessary the wording of the conditions suggested by the Council has been amended slightly in the interests of precision and clarity.
11. I have not imposed the conditions suggested by the Council relating to the extent of the curtilage and to an electric vehicle charging point as I do not

¹ Hibbert and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

consider that such conditions are reasonable or necessary having regard to the submitted details and nature and scale of the proposal and I have seen no policy justification for the charging points.

Conclusion

12. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed and prior approval should be granted.

Beverley Wilders

INSPECTOR