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## Appeal Decisions

Site visit made on 7 November 2019

**by R Sabu BA(Hons) MA BArch PgDip ARB RIBA**

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

**Decision date: 4<sup>th</sup> December 2019**

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### **Appeal A Ref: APP/Y2810/W/19/3234721**

#### **Church Farm Barns, Church Farm, Overstone Park, Overstone NN6 0AE**

- 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 (GPDO).
  - The appeal is made by Mr P Charles against the decision of Daventry District Council.
  - The application Ref PD/2018/0078, dated 12 December 2018, was refused by notice dated 8 February 2019.
  - The development proposed is change of use of agricultural building to form 2 no dwellings (Barn 1).
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### **Appeal B Ref: APP/Y2810/W/19/3234921**

#### **Church Farm Barns, Church Farm, Overstone Park, Overstone NN6 0AE**

- 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 (GPDO).
  - The appeal is made by Mr P Charles against the decision of Daventry District Council.
  - The application Ref PD/2018/0079, dated 12 December 2018, was refused by notice dated 8 February 2019.
  - The development proposed is change of use of agricultural building to form 2 no dwellings (Barn 2).
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### **Decision Appeal A**

1. The appeal is allowed and planning permission is granted for change of use of agricultural building to form 2 no dwellings (Barn 1) at Church Farm Barns, Church Farm, Overstone Park, Overstone NN6 0AE in accordance with the terms of the application, Ref PD/2018/0078, dated 12 December 2018, subject to the following conditions:
  - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1329-18/04 Rev B, 1329-18/07 Rev A and 1329-18/09.
  - 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for

the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.

### **Decision Appeal B**

2. The appeal is allowed and planning permission is granted for change of use of agricultural building to form 2 no dwellings (Barn 2) at Church Farm Barns, Church Farm, Overstone Park, Overstone NN6 0AE in accordance with the terms of the application, Ref PD/2018/0079, dated 12 December 2018, subject to the following conditions:
  - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1329-18/06 Rev B, 1329-18/07 Rev A and 1329-18/10.
  - 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.

### **Procedural Matters**

3. I have used the description of development for both appeals from the respective decision notices omitting phrases that are not an act of development, in the interests of clarity since those descriptions refer to the relevant barn.
4. As set out above there are two appeals which differ partly in their location within Church Farm. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

## Main Issue

5. From the evidence before me, the main issue for **Appeal A** and **Appeal B** is whether or not the proposed change of use would be permitted development having regard to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

## Reasons

6. 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) of the Schedule to the Use Classes Order together with building operations reasonably necessary to convert the building.
7. Paragraph Q.1.(i) places restrictions on 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 operations allowed by paragraph Q.1(i)(i).
8. Paragraph 105 of the Planning Practice Guidance (PPG) provides further guidance. It 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.
9. Barns 1 and 2 consist of an existing steel portal frames with corrugated roofs and concrete floors. Some parts of the elevations have single leaf blockwork on the lower half with timber cladding on the upper half, while other parts of the building have open elevations. The appeal scheme consists of the demolition of part of the barns, and two residential dwellings proposed in the remaining parts of each barn.
10. The proposals include a new external masonry wall on each barn as well as the retention of the low-level blockwork walls and infilling that would be over clad with timber cladding. The corrugated roof would be replaced with single ply roof covering. While the Council considers that the proposals would result in new structural walls which will hold the roof structure to both Barns and would require foundations, the Structural Report<sup>1</sup> states that the existing barn can safely support the proposed layout and construction without any structural enhancement. From the evidence before me, I am satisfied that the existing portal frame would be able to support the new roof covering.
11. I note that it also states for both barns, that the proposed masonry construction would consist of a number of cross walls and internal partitions which would buttress the masonry independently of the steel frame. While the slab would need to be refurbished to allow the installation of a damp-proof membrane, insulation and a levelling screed, these works would not contribute to the structural integrity of the building. Furthermore, since the report adds that the steel frame itself will be able to resist the wind loading that will be generated by the external cladding, without any strengthening, I am satisfied that the masonry walls would not introduce any substantial structure to the proposals. Moreover, new exterior walls are permitted by paragraph Q.1 of the GPDO.
12. Overall, while I acknowledge that parts of the barns have doors or are partly open sided, since large portions of each barn would utilise the existing blockwork walls and given the

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<sup>1</sup> Ref: 18/31380/REV 'B' Date: December 2018 Prepared by: David Smith

findings of the Report, I am not persuaded that the proposed works would constitute starting afresh as was the finding in the *Hibbitt*<sup>2</sup> case.

13. While the proposal for Barn 2 would involve new foundations to support a new mezzanine floor, these elements are not prohibited by Class Q of the GPDO as set out in PPG paragraph 105.
14. I acknowledge the comments of the Inspectors for the Appeals at Lower Lodge Farm, Oak Farm and Court Farm<sup>3</sup>. However, each case must be determined on its individual merits and these cases have not altered my overall decision.
15. Therefore, for the above reasons and having taken into account, the proposed works to both Barn 1 and Barn 2 would be reasonably necessary for the conversion of the existing agricultural building to residential use and would fall within the scope of paragraph Q.1 of the GPDO.
16. Consequently, the proposed developments subject to Appeal A and Appeal B would be permitted development having regard to Schedule 2, Part 3, Class Q of the GPDO.

### Other Matters

17. I note concerns regarding the service provided by the Council. However, each case must be determined on its individual merits and the other cases determined by the Council<sup>4</sup> have not altered my overall decision.

### Conditions

18. Paragraph W (13) of the GPDO does allow conditions to be imposed that are reasonably related to the subject matter of the prior approval. I have considered the Council's suggested conditions and made changes having regard to paragraph 55 of the National Planning Policy Framework and the Planning Practice Guidance. I have also made minor amendments in the interests of precision and clarity.
19. Conditions relating to time limit and specifying the approved plans is required in the interests of certainty. Since the site potentially lies within a radon affected area, a condition relating to contamination is necessary and needs to be pre-commencement as it would be likely to relate to the demolition of parts of the existing buildings and early stages of construction. I have used a more concise condition in place of the conditions suggested by the Council.
20. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, in response to a request by e-mail, the appellant has confirmed that they approve of the pre-commencement conditions.

### Conclusion

21. For the reasons given above **Appeal A** and **Appeal B** should be allowed.

*R Sabu*

INSPECTOR

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<sup>2</sup> *Hibbitt and another v Secretary of State for Communities and Local Government* (1) and *Rushcliffe Borough Council* (2) [2016] EWHC 2853 (Admin).

<sup>3</sup> Appeal refs: APP/J3720/W/17/3179581, APP/V0510/W/18/3198442 and APP/Z3825/W/18/3211612

<sup>4</sup> Council refs: PD/2019/0019 and PD/2019/0023