



## Appeal Decision

Site visit made on 11 November 2019

**by Matthew Jones BA(Hons) MA MRTPI**

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

**Decision date: 8 January 2020**

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**Appeal Ref: APP/Y3940/W/19/3234473**

**The Barn, Cow Lane, Laverstock, Salisbury SP1 2SR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
  - The appeal is made by Mr P Bialek against the decision of Wiltshire Council.
  - The application Ref 19/05238/PNCOU, dated 17 September 2018, was refused by notice dated 24 July 2019.
  - The development proposed is described as '*change of use of existing agricultural buildings to form a dwelling*'.
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### Decision

1. The appeal is dismissed.

### Background

2. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (Amendments and Consequential Provisions) (England) Order 2015 (the GPDO) allows for the 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) and building operations reasonably necessary to convert the building into such. This is subject to criteria set out in paragraph Q.1 and to conditions in paragraph Q.2.
3. The proposal seeks both a change of use and building operations. The decision notice sets out the Council's opinion that the building is not capable of conversion, that the proposal would constitute a rebuild and that there is insufficient evidence to assess its design or external appearance.

### Main Issue

4. The main issue is therefore whether or not the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to the building operations necessary to convert the building into a dwelling and the proposal's design and external appearance.

### Reasons

5. The appeal relates to an agricultural building on the outskirts of Salisbury, accessed from Cow Lane. Largely open fronted, the other three sides are formed of concrete blockwork atop of which are panels of hit-and-miss timber boarding on the south and west elevations. Masonry piers within the walls provide support for a steel framed roof, which is finished in galvanised steel and cementitious sheeting. Internally the barn has a concrete floor.

6. Class Q accepts that the installation or replacement of windows, doors, roofs or external walls can be allowable. However, its overarching provision states that to be permitted development the building operations must be reasonably necessary to 'convert' the building. Pursuant to the case law referenced by the main parties<sup>1</sup> (Hibbit), if the works go beyond what would amount to a 'conversion', then the development would fail at the first hurdle. The Planning Practice Guidance 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.
7. The appeal is accompanied by a Current Structural Condition Report (CSCR) and an updated Scope of Works (SoW) which the appellant is satisfied evidence that the existing building can be converted. However, the CSCR is based only upon a visual assessment, is equivocal in some of its language, and is not intended as a fully detailed structural survey. The updated SoW explains that it seeks to only indicate a method of conversion, not prescribe a detailed specification of works. Consequently, notwithstanding the professional credentials of their authorship, the CSCR and SoW are inherently limited documents and attract a proportionate degree of weight in my assessment.
8. Although the CSCR concludes the building to be a robust form of construction, it also identifies it to be in a poor state of repair, which will worsen if left. This appears inconsistent with the SoW which states that the barn has no underlying structural defect, but consistent with the Council's photographs that show bowing and cracking to the walls, which I myself observed on site. Whilst the Council has not produced an expert structural survey, the evident physical defects to the building, combined with the limitations and variation within the appellant's evidence, cast doubt in my mind as to the degree of existing blockwork that would be retained within the proposal.
9. There is also inconsistency between the CSCR and SoW regarding the need or otherwise for the roof sheeting to be replaced. I also note that the sectional drawings Ref HY5 and HY10, to which I am directed by the SoW, do not reflect the existing or proposed roof, wall or flooring details on site, and therefore are not entirely applicable to this building. Given such, and considering also the indicative nature of the SoW, I am compelled to agree with the CSCR that the roof finish would require replacement.
10. The CSCR is silent on the existing hit-and-miss elements of the walls. In order to solidify these areas, they are proposed by the SoW to be externally clad with close boarded timber, which would create the cavity between the external and internal walls. This looks to be inconsistent with the elevational drawings, which appear to show render applied to these areas. Either way, the evidence suggests that the hit-and-miss boards prevent the existing walls from making a meaningful structural contribution to any residential conversion.
11. On this basis, the south and west elevations of the building would require fundamental alteration to enable suitable human habitation. Given that a new glazed wall and significant areas of panelling are also proposed across the principal elevation, the scheme would introduce new structural elements across at least three elevations of the building. This is in addition to the wholesale introduction of new internal walls and ceilings, new apertures, the new roofing

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<sup>1</sup> Hibbitt & Anor v Secretary of State for Communities & Local Government & Ors [2016] EWHC 2853 (Admin)

material, and potentially significant alterations to or replacement of the existing blockwork, which I cannot rule out.

12. The SoW puts forward its own test for determining if the extent of these works constitute the conversion of the building or its rebuild. Whilst I acknowledge the logic to its approach, the greater weight attaches to Hibbit, which seeks not to prescribe an exact test or threshold after which the nature of the work changes. This remains a matter of planning judgment to be made on the individual circumstances of each case.
13. I accept that the works set out within Class Q can be both internal and external, can in some cases be extensive and that, taken in isolation, some of the individual elements of the appeal proposal would be considered acceptable. However, the evidence suggests to me that the existing structure offers only limited assistance to the creation of a habitable dwelling and cannot be guaranteed to be substantively retained in any case. As such, when considered as a whole, the proposed work would likely be of such magnitude as to qualify as a rebuild (or fresh build), thereby falling beyond the scope of the GPDO.
14. It follows that the provisions of paragraph Q.2 are not applicable. I need not therefore consider further the design or external appearance of the proposal as such assessment would not influence the outcome of the appeal.

### **Other Matters**

15. The government is seeking to significantly boost the supply of housing through, amongst other things, the reuse of existing rural buildings. The proposal would provide a single home in this regard, in a location within range of the extensive services within Salisbury. However, the appeal relates to a legal test and therefore these benefits of the scheme are not germane to my assessment.
16. The Council has supplied a number of appeal decisions at sites elsewhere, which have been in turn referenced by the appellant<sup>2</sup>. However, as each case is assessed on its own individual merits, these appeals have not been determinative in my reasoning.

### **Conclusion**

17. The evidence before me draws the conclusion that the proposal would exceed the overarching requirements of Schedule 2, Part 3, Class Q the GPDO. For the reasons set out above, I conclude that the proposal would not be permitted development and the appeal should be dismissed.

*Matthew Jones*

INSPECTOR

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<sup>2</sup> Appeal Refs 3218933, 3197750, 3181831, 3197750, 3214429, 3218933, 3221626, 3220678