



Appeal Decision

Site visit made on 18 August 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

Appeal Ref: APP/Z3825/W/20/3251781

**Lordings Farm, Lordings Road, Adversane, Billingshurst, West Sussex
RH14 9JE**

- 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 H Ayre against the decision of Horsham District Council.
 - The application Ref DC/20/0104, dated 16 January 2020, was refused by notice dated 12 March 2020.
 - The development proposed is conversion of a barn to provide 3 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application for prior approval was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO'). Class Q permits the change of use of an agricultural building to a dwellinghouse as well as building operations reasonably necessary to convert it, subject to the criteria set out within the legislation. In this case the proposal is for the conversion of a barn to provide 3 dwellings.

Main Issues

3. The main issues are:
 - Whether the proposal would be permitted development having regard to the requirements of Class Q of the GPDO; and
 - If so, whether the proposal would satisfy the detailed prior approval conditions (b and e) as detailed in Class Q Paragraph Q.2. (1) of Schedule 2, Part 3 of the GPDO.

Reasons

Whether the proposal would be permitted development

4. The appeal site comprises part of a complex of agricultural buildings located on the eastern side of Lordings Road. The single storey appeal buildings, described as a barn, are interconnected and collectively front onto two separate courtyards.

5. There is no dispute between the parties that the proposal complies with the requirements of Paragraphs Q.1.(a)-(h) and (j)-(m). However, the parties disagree over whether the proposal complies with Paragraph Q.1.(i) which places restrictions on the building operations which can be undertaken.
6. Paragraph Q.1.(i) 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 the building operations allowed by Paragraph Q.1.(i)(i).
7. The Planning Practice Guidance¹ (PPG) provides further clarification regarding what works are permitted under Class Q. It explains that the right assumes that the agricultural building is capable of functioning as a dwelling and the right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building. It goes on to confirm 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. Insofar as the difference between conversions and rebuilding the PPG refers to the *Hibbitt* High Court Judgement², to which I have had regard in the determination of this appeal.
8. The interconnected appeal buildings, referred to as units 1,2 and 3 on the submitted plans, consist predominantly of brick construction to the exterior walls but there is also some timber cladding. The roofs are mainly covered with clay tiles although some parts consist of metal sheeting. I saw at the time of my site visit that the appeal buildings varied in terms of their overall condition; some walls were in a poor state of repair and parts of the roof covering were missing. I have had regard to the structural report³ submitted in support of the proposal. In regard to the roofs and exterior walls, and in light of the findings of the structural report, I consider that works to upgrade and/or strengthen these elements of the appeal buildings are reasonably necessary for the buildings to function as dwellinghouses.
9. The appellant contends that the buildings have 'concrete slab foundations'. The structural report, however, explains that no trial pits were undertaken to view what lies beneath the exterior walls of the buildings. In respect of units 1 and 2, the report states that *"If there are no foundations, the walls will need to be underpinned. If the existing foundation is not adequate then it will require strengthening to Engineers details"*. In respect of unit 3, the report states that *"No trial pit has been undertaken but it can clearly [be seen] that there are no existing foundations. New foundations will be required"*. The report also explains that in regard to unit 3, given that the ground floor slab does not appear to be in good condition it should be rebuilt and where exterior walls are to be replaced, they should be built on trench foundations.

¹ Paragraph: 105 Reference ID: 13-105-20180615

² *Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin).

³ Krystal Engineering, Rev A December 2019

10. Consequently, based on the evidence before me it is by no means certain that units 1 and 2 have foundations. Even if they do, I have not been presented with any evidence to demonstrate that they would not require strengthening. In light of the findings of the structural report I cannot rule out the possibility that the exterior walls of units 1 and 2 may need to be underpinned and there is no doubt that unit 3 will require new foundations. There is not sufficient evidence before me that would lead me to any alternative conclusion.
11. The excavation and installation of new foundations, and underpinning works, are not building operations that fall within Paragraph Q.1.(i)(i) of Class Q that are reasonably necessary for a building to function as a dwellinghouse. Such building works would be significant and include works underneath the exterior walls of the buildings. Hence, they would not likely be restricted to only the interior of the buildings and would likely go beyond 'maintenance, improvement or other alteration' which would be exempted from the meaning of 'development' under s55(2)(a) of the Act⁴.
12. I acknowledge that the buildings are of traditional construction and accept that Class Q does potentially allow for substantial works. However, on the basis of the evidence submitted, I consider that the buildings would likely, as a whole, require significant works taking into account unit 3 would require new foundations and I cannot rule out the possibility that the exterior walls of units 1 and 2 may need to be underpinned, which would involve the strengthening of the foundations of the buildings. Thus, in this regard, and as a matter of fact and degree, I consider that the required building operations would represent rebuilding work which would be beyond what could be considered to be reasonably necessary for the buildings to function as dwellinghouses. The building operations would go beyond what could reasonably be described as a conversion scheme.
13. For the reasons outlined above, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO, having regard to the requirements of Paragraph Q.1.(i)(i) in relation to building operations to the extent reasonably necessary for the buildings to function as dwellinghouses.
14. The appellant says that the Council has been incorrectly interpreting the relevant Class Q criteria. He has drawn my attention to a recent allowed appeal decision⁵ which he considers shares a number of similarities with this case and where an Inspector stated that "*Having taken into account the Hibbitt case, and all the evidence, I consider that the proposed works would amount to conversion of the cart shed and not re-building of it. The cart shed is capable of functioning as a dwelling following building works reasonably necessary to convert it. Therefore, it meets the requirement of Paragraph Q.1 (i)(i)*". However, in that case I note that the Inspector also stated that "*The foundations would not require any works*". Thus, that case is not directly comparable to the case now before me and so does not alter or outweigh my overall conclusion set out above.
15. The appellant also says that the Council's decision in this case differs from the decision it made under an earlier application⁶ for prior approval under Class Q

⁴ The Town and Country Planning Act 1990

⁵ Reference: APP/Z3825/W/18/3211612

⁶ Reference: DC/15/143

for a proposal at the appeal site, where it raised no concerns in respect to Paragraph Q.1.(i). The appeal proposal relates to additional buildings compared to the earlier scheme. Nevertheless, I accept that there are similarities with this case and acknowledge the appellant's point that the condition of the subject buildings is unlikely to have significantly changed since the previous application was considered by the Council. However, based on the evidence before me, a structural report was not presented to the Council in the earlier case. Hence, the information upon which the Council considered the two schemes appears to be different. In any event, I have determined the appeal on its individual planning merits based on the evidence before me. The fact that the Council did not raise any concerns in respect to Paragraph Q.1.(i) at the time it considered a similar earlier proposal does not alter my conclusion that, in this case, the proposal is not permitted development.

Prior Approval

16. Given my overall conclusion that the proposal is not development permitted under Class Q of the GPDO, there is no need for me to consider whether the proposal would satisfy the detailed prior approval conditions (b and e) as detailed in Class Q Paragraph Q.2. (1) of Schedule 2, Part 3 of the GPDO.

Conclusion

17. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is, therefore, dismissed.

Andrew Bremford

INSPECTOR