
Appeal Decision

Site visit made on 6 October 2020

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2020

Appeal Ref: APP/P2365/W/20/3252163

Buildings at Boydells Farm, Hillock Lane, Dalton, Wigan WN8 7RJ

- 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 & Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Mr John Gerald Holding against the decision of West Lancashire Borough Council.
 - The application Ref 2019/1072/PNC, dated 21 October 2019, was refused by notice dated 23 December 2019.
 - The development proposed is change of use of 2 agricultural barns to 5 dwelling houses.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended) is granted for the change of use of 2 no. agricultural barns to 5 no. dwelling houses using the buildings at Boydells Farm, Hillock Lane, Dalton, Wigan WN8 7RJ in accordance with the terms of application TWC/2019/0815, dated 21 October 2019, subject to the conditions set out in the Schedule as well as the standard conditions set out in the GPDO.

Application for costs

2. An application for costs was made by Mr John Gerald Holding against West Lancashire Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council's Decision Notice issued states that the proposal would exceed the limitations relating to Permitted Development under Class Q, (b) as well as Part Q.1 (i). The Council also references Conditions Q.2 (1) (b), (e) and (f) of Class Q Part 3 in that the noise impacts of the development; the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and the design or external appearance of the building would be unacceptable. Any proposal which is not Permitted Development cannot be

subject to the prior approval process as it would need full planning permission. Therefore, issues relating to the merits of the prior approval application are only relevant if the proposal would be Permitted Development.

4. Following notification of the appeal it is accepted by parties that the site was used on 20 March 2013 as part of an established agricultural unit. Therefore, the terms of Q.1 (a) (i) are complied with.

Main Issues

5. The main issues are:-

- whether the proposal would fall within the limitations for it to be Permitted Development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the buildings to be converted and used as dwellings; and
- whether Conditions Q.2 (1) (b), (e) and (f) in relation to the noise impacts of the development; the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and the design or external appearance of the building are acceptable.

Reasons

6. Paragraph 105 of the Planning Practice Guidance states that the Class Q right assumes that the agricultural building is capable of conversion to a dwelling. It is therefore not the intention of Class Q to allow rebuilding work which would go beyond those 'reasonably necessary'.
7. My attention has been drawn by parties to the Hibbitt Case¹ which relates to the difference between conversions and rebuilding dealt with under Class Q. This is important because if a development does not amount to a conversion it would fail to be development permitted under Class Q (b). The case suggests that an agricultural building may be so skeletal and minimalist that the works needed to alter it to be used as a dwelling would be of such a magnitude that it would be tantamount to a new build or rebuild.
8. The appellant's structural survey confirms both barns are structurally stable and capable of conversion. No new foundations are proposed. The Council does not dispute the structural integrity of the buildings. In the case of 'Snow Barn' a large lean-to section of the existing building would be demolished to facilitate the smaller footprint of the proposed dwellings in line with existing framing of the building to be retained. The appellant's structural report suggests that blockwork walls to the existing front and rear elevations would also be retained and if necessary cross bracing could be added.
9. In the case of 'Cattle Barn' the appellant's structural report acknowledges that the front elevation of the dwellings would have large glazed panels, and

¹ Hibbitt, and Another v Secretary of State for Communities and Local Government, and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

these would be installed between existing frame columns. A substantial part of the building's existing framing would be removed as a result. Effectively the building would become around half its current size. New connections would also need to be made with the central two frames of the barn to provide stability. To the rear existing blockwork would be retained with new window openings formed. The side walls would be retained with new openings, but the existing masonry would need to be tied into structural framing with steel cross bracing.

10. There is nothing within the contents of Class Q which prevents partial demolition works. The appeal scheme would involve specific targeted demolition and strengthening works to allow existing segments of the barns to be utilised without compromising their structural integrity. I am also conscious that the remaining segments of the barns to be retained would still amount to substantial structures.
11. The question of whether the existing buildings are capable of conversion rather than constituting a new or rebuild lies at the heart of the matters contested by parties. Although the dwellings would be smaller in footprint than the existing barn buildings, they would be formed utilising substantial parts of their existing structure and foundations. Thus, whilst I acknowledge a significant amount of demolition would be involved in the scheme it does not convince me that the resultant works would constitute a new build proposal as opposed to one of conversion.
12. Based on the evidence before me I conclude that the conversion of the barn would not be at odds with Class Q, (b) and the scheme would be permitted development.

Condition Q.2 (f) design or external appearance of the building

13. The site location is within the open countryside. There is a small enclave of residential properties close to the appeal site of varying designs. Aside from the appeal buildings and nearby dwellings the appeal site has a predominantly rural open green character.
14. The two barns comprise of blockwork and metal cladding which is part of the existing appearance of the area. It is not uncommon for agricultural buildings to comprise of these materials. The appeal scheme would largely replicate the existing character of the buildings albeit with significant amounts of additional glazing and several new openings. Although I accept that the new dwellings would appear different to the design of other nearby properties, I do not find that the degree of change would be harmful. The reduction in the bulk of the buildings and removal of the separate field shelter structure would provide an overall visual enhancement.
15. I find that the design or external appearance of the development would successfully integrate with existing surroundings without harm to the character and appearance of the locality. I therefore conclude that Condition Q.2 (f) is complied with.

Conditions Q.2 (b), (e) Noise and location/siting of the building

16. It is likely that noise from existing agricultural activities linked to the keeping of livestock close to other residential properties would have a greater noise

impact than the development proposed. There is no substantive evidence submitted which leads me to the conclusion that the noise arising from the development would result in any material harm.

17. Furthermore, the site is accessible from an existing road. Factoring the parameters set out within the NPG² I do not consider that the location and siting of the buildings would make them impractical or undesirable as to not comply with Class Q.2(e). There are other dwellings already in the vicinity and the appeal site lends itself to further residential use without causing any significant harm, where the subsequent effects arising from the keeping of livestock have been previously apparent to neighbouring residents. The inspector's findings which followed an earlier outline planning application on the appeal site involved different factors triggered by the Framework, therefore my decision is not in conflict with that.
18. The Council have suggested a condition to prevent the resurrection of agricultural uses following the first residential occupation of any of the units. Such an approach is justified given there are two independent buildings. This would safeguard against the marginal risk of any potential harm to resultant living conditions arising where the resurrection of the keeping of livestock or other agricultural operations could give rise to odour, flies and disturbance or noise issues from machinery making the site impracticable/undesirable to live on.
19. I find that Conditions Q.2 (b) and (e) are complied with.

Other Matters

20. I have considered third party objections to the proposal covering a variety of points including highway safety; access difficulties and that the buildings have an active agricultural use still regularly accessed for that purpose. However, none of these points are significant to the specific issues contested within the Council's Decision Notice. For that reason, my findings are unaltered.
21. A wide variety of other appeal decisions are referred to by parties. Whilst there are some similarities on some technical points, they largely relate to individual case matters concerning other sites and because of that they have no significant bearing on my findings.

Conditions

22. Paragraph 3 of section Q2 of the GPDO requires the development to be completed within a period of three years starting with the date of this decision. Paragraph 12(a) of section W of the GPDO requires the development to be carried out in accordance with the approved details.
23. The Council have suggested a list of conditions. A condition requiring further contamination investigation is required to protect human health and the local water environment. However, I have modified the wording to allow commencement of the access works as this would be positioned well away from the barns where potential historic storage of fuel tanks or made up

² Paragraph: 108 Reference ID: 13-108-20150305

ground has been highlighted as a source of risk, and a prior to commencement condition would be overly restrictive.

24. Conditions relating to site access, driveway and parking provision are required to allow the safe manoeuvring of vehicles. A condition for the maintenance management of the internal access road and securing Lancashire County Council Specification for Construction (which I have not been provided a copy of) is not necessary on highway safety grounds for this scale of development and would also duplicate requirements beyond those found within the planning system. I have therefore omitted those suggested conditions and condensed/modified the remaining highway safety related suggested conditions in order to meet relevant tests and to enable greater flexibility. A condition is required for wheel wash facilities on site to prevent debris and mud getting onto local public roads in the interests of highway safety.
25. The suggested prior approval of materials condition is not required as these are already detailed and match the existing buildings. There is no substantive evidence to support that a drainage condition would be an essential requirement to make the proposal acceptable given the extent of drainable areas surrounding the appeal site and factoring the proposed reduction in the size of the existing buildings. As no landscaping details are provided within the appeal documentation the Council's suggested landscaping condition would not be enforceable. The immediate site surroundings already entail a high degree of rural greenery therefore I am not convinced additional landscaping information is warranted. As a result, I do not consider any of those particular suggested conditions would meet the test of necessity.

Conclusion

26. For the reasons given above the appeal succeeds.

M Shrigley

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted must be completed within 3 years of the date of this decision.
- 2) Other than the works required to construct the site access/access road no other parts of the development shall commence until site access visibility splays measuring 2.4m by 43m in both directions have been provided, measured along the centre line of the proposed new road from the continuation of the nearer edge of the existing carriageway of Hillock Lane. The land within these splays shall be maintained thereafter, free from obstructions, such as walls, fences, trees hedges shrubs, ground growth or any structures in excess of one metre in height.
- 3) The proposed access from the site to Hillock Lane shall be constructed to a (minimum) width of 5.5 metres. This width shall be maintained for a minimum distance of 10 metres measured back from the nearside edge of

the Hillock Lane carriageway for the duration of the development hereby approved. It shall also be surfaced in a bound material as to not result in mud or debris being transferred to public roads before the development is occupied.

- 4) Prior to the first occupation of any dwelling plans showing details of the areas for the movement, loading, unloading and parking of vehicles shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until such areas have been provided, constructed and surfaced in accordance with the approved plans.
- 5) For the full period of demolition and construction, facilities shall be available on site for the cleaning of the wheels of vehicles leaving the site and such equipment shall be used as necessary to prevent mud or debris being carried onto the highway. The roads adjacent to the site shall be mechanically swept as required during the full construction period.
- 6) Other than approved works to implement the proposed access and driveway no other development shall commence until a contaminated land assessment and associated remedial strategy, together with a timetable of works, has been submitted to and agreed in writing by the Local Planning Authority:
 - a). The results of the site investigation shall be made available to the Local Planning Authority before any further development begins.
 - b). If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.
 - c). The site shall be remediated in accordance with the approved measures before the conversion works begin.
 - d). If during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority.
 - e). The remediation of the site shall incorporate the approved additional measures and a timetable for their implementation.
- 7) Prior to the first occupation of any hereby approved dwelling all agricultural activity within the application site shall cease and shall not be restarted at any time following the first occupation of any of the approved dwellings.