



Appeal Decision

Site visit made on 27 July 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2021

Appeal Ref: APP/P1805/W/21/3272499

Burmans Fields Farm, Dark Lane, Hollywood, Bromsgrove B38 0BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr S Bailey against the decision of Bromsgrove District Council.
 - The application Ref: 20/01431/CUPRIO, dated 12 November 2020, was refused by notice dated 20 January 2021.
 - The development proposed is change of use of agricultural building to a dwellinghouse (Class C3) and associated operational development.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO, with specific regard to whether the building operations are reasonably necessary to convert the building.

Reasons

3. The appeal building is a single-storey agricultural building used for stabling and storage. It is set off a track off a country lane. The building's exterior walls and roof mainly comprise corrugated metal sheets of varying condition. On parts of the building, blockwork lower walling on the western elevation, ageing timber slat upper walling and timber doors form the rest of the surface material.
4. Under Class Q, Paragraph Q of Part 3 of Schedule 2 of the GPDO sets out that development consisting of (a) 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), or (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building, is permitted development, subject to prior approval on specific matters.
5. For development to be permitted under Class Q, 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 dwellinghouse are not permitted.

6. Planning Practice Guidance (PPG) 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. 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.'¹
7. In terms of what is 'reasonably necessary' for such conversion, the PPG points to the *Hibbitt*² judgement, which establishes the following. To be permitted under Class Q, building operations would, among other things, need to be of a magnitude to fall within the scope of a conversion, rather than exceed that concept and amount to a fresh build or rebuild. The fact that the appeal building is not largely open-sided, as was that in the *Hibbitt* case, does not diminish the applicability of the principle of scope of conversion.
8. Thus, Class Q does not exclude the possibility of replacement of exterior walls and the roof. However, in the light of the PPG and the *Hibbitt* judgement, if such works in combination with other works are of such magnitude to amount to a fresh build, they would not constitute permitted development.
9. In this case, the proposal would entail replacement of the appeal building's exterior wall cladding and roof sheet. As such, the agricultural building in this case would not be able to function as a dwellinghouse in the absence of the works detailed above, which are required to alter its original purpose. As a matter of fact and degree, I find that the required works would be of such magnitude as to amount to a fresh build, with only a modest contribution from the current building structure.
10. Therefore, the proposed works in their entirety would go beyond building operations 'reasonably necessary' to convert the building to residential use under Class Q. Consequently I find that the proposal would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO.
11. Neither the potential for future maintenance work to the building, nor part Q approvals on sites beyond the local planning authority area, as cited by the appellant, alter the above specifics in this case and my consequent findings.
12. Furthermore, the scenarios in the extract from the Herefordshire Council Part Q Technical Guidance Note, as highlighted by the appellant³ in relation to the *Hibbitt* judgement are described in this guidance as 'some typical examples' and not 'an exhaustive list'. That the specific combination of works in the current appeal is not within the limited sample of examples in the other local authority's guidance note does not preclude the proposal from falling outside the provisions of Class Q in this case.
13. The Council has expressed concern that the building's frame may not be structurally capable of supporting the proposed works, given that the structural assessment⁴ submitted by the appellant appears to be based on the premise of only the roof being replaced. Even if the frame were structurally capable of supporting the totality of proposed works, this alone would not be sufficient to

¹ Ref ID: 13-105-20180222

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

³ On page 16, Grounds of Appeal.

⁴ Letter ref: TAW/SR/17930 from HWA (Structural Engineers) Ltd, dated 10 November 2020.

meet the requirements of Class Q. Furthermore, as I am dismissing this appeal on other grounds, this would not alter my decision.

Other Matters

14. Given that I find the proposal would not constitute permitted development, it is not necessary in this instance for me to further consider matters raised in the second reason for refusal, relating to protected species.

Conclusion

15. For the reasons given above, I conclude that the proposal would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO and, consequently, the appeal fails.

William Cooper

INSPECTOR