
Appeal Decision

Site visit made on 18 August 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2021

Appeal Ref: APP/L1765/W/21/3267102

Barn 9, Fobdown Farm, Abbotstone Road, Fobdown SO24 9TD

- 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 E Hunter-Smart against the decision of Winchester City Council.
 - The application Ref 20/01205/PNACOU, dated 15 June 2020, was refused by notice dated 20 July 2020.
 - The development proposed is change of use of an agricultural building to 2 x dwellinghouses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Schedule 2, Part 3, Paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015¹ (GPDO) sets out the prior approval process. It states² that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval.

Main Issues

3. The main issues are:
 - Whether the proposal would be permitted development (PD) under Schedule 2, Part 3, Class Q³ of the GPDO; and
 - If so, whether or not prior approval would be required in accordance with the condition set out in Paragraph Q.2 (1) of the GPDO.

Reasons

Whether the proposal would be permitted development

¹ SI 2015 No.596

² Paragraph W.(3)

³ SI 2018 No.343

4. Class Q permits 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 (a) together with building operations reasonably necessary to convert the building referred to in (a) to a Class C3 (dwellinghouse) use. The appeal relates to development under both Q(a) and Q(b), so that the proposal relates to the change of use to residential as well as associated facilitating works.
5. 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).
6. Paragraph 105 of the Planning Practice Guidance⁴ (PPG) provides further clarification. The guidance states that, the Class Q permitted development right assumes that the agricultural building is capable of functioning as a dwelling. It further adds that the right permits building operations which are reasonably necessary to convert the building. As such, 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 into 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. The PPG also acknowledges that internal works are generally not development, and that for the building to function as a dwelling it may be appropriate to carry out internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floorspace permitted, or internal walls, which are not prohibited by Class Q.
7. The building, known as Barn 9, forms part of a group of agricultural and residential buildings at Fobdown Farm, which share vehicular access via a lane leading from the east side of Abbotstone Road. There are residential properties to both sides of the appeal site and a large agricultural building immediately to its rear.
8. The appeal property comprises a steel portal framed barn, which is used for the storage of farm equipment. It is divided into 5 bays and has a mono-pitched, corrugated asbestos roof, supported by timber purlins spanning between steel beams which span between steel columns. The front elevation is predominantly open, apart from in front of the northeasternmost bay, which has been internally separated from the remainder of the barn by a blockwork wall. The rear and one side elevation comprise corrugated asbestos sheeting which is supported by a mid-height timber rail. The other side elevation largely consists of a flint-faced and brick-backed wall, with corrugated asbestos sheeting above, which is attached to a horizontal timber rail, leaving a gap above the wall. The whole of the ground under the building is laid to concrete slab.
9. The proposal is to convert the barn into two single storey, 2-bedroomed dwellings, each with a floor area of less than 100 square metres, comprising “smaller dwellinghouses” under Paragraph Q.3 of the GPDO.

⁴ Reference ID: 13-105-20180615

10. I have noted that the appellant's supporting Structural Inspection by Finite Design Ltd (the Structural Report) concludes that the building is in a good structural condition, with no apparent evidence of structural movement, and with the structural steelwork, cladding, side rails and concrete ground bearing slab all being in a reasonable condition. As such, the Structural Report finds that the existing structural framework could easily be utilised and modified to take account of any future conversion of the building into residential units. However, the ability of the existing structure to bear the load of the proposed development is not, in and of itself, sufficient to meet the requirements of Class Q.
11. Class Q allows for building operations altering external appearance, as well as internal alterations. However, in order to benefit from the PD rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must only involve building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b) and paragraph Q.1(i).
12. The building is likely to require an extensive amount of work to facilitate the creation of the two proposed dwellings. A new front exterior elevation would need to be created, which is proposed to comprise cladding and brick, to infill the existing open building frontage. This would constitute a significant part of the building elevations due to the combined building width and height at the front. In addition, the existing blockwork, timber doors and timber cladding of the currently enclosed part of the front elevation would be replaced with cladding to match the remainder of the front elevation, which would also incorporate a number of windows and two sets of entrance doors with windows to each side.
13. In respect of the other three walls, a substantial amount of brick bolstering is proposed along the entire length of the rear elevation at ground level, and the supporting structural report notes that the brick and flint wall of the southwest side elevation would require strengthening in places and protection from potential future deterioration. In the absence of evidence to the contrary, it appears likely that lining/insulation would be required to the existing walls and roof, particularly given the relatively lightweight and single skin nature of the corrugated sheeting elements of the structure. Furthermore, it is unclear from the evidence before me, whether it is proposed to retain the existing asbestos sheeting or replace it with cladding of a similar appearance.
14. Other proposed alterations include changes to the existing ground floor levels and the insertion of two large rooflights and 4 sets of double rooflights within the roof, which would comprise alterations to a large part of the existing roof fabric.
15. Having regard to the above, whilst individually the proposed works would fall within the definitions included within Paragraph Q.1 (i), from the evidence before me, it seems that, taken cumulatively, they are likely to result in only a very little of the existing building structure remaining unaltered. In this respect, I find that the amount of building work required for the building to function as dwellings is such that the proposal relies very little upon the existing building. As such, having regard to the High Court judgement in the *Hibbitt* case⁵ and the associated appeal decision⁶, which are referred to in

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

Paragraph 105 of the PPG, these works would exceed what could reasonably be described as conversion, and would be so extensive as to comprise substantial re-building of the existing structure. This goes beyond what is reasonably necessary for the conversion of the buildings into residential use.

16. The appellant has drawn my attention to a number of allowed appeals⁷, which I have taken into account, including how they were determined having regard to the Hibbitt Judgement. I note that they include proposals related to barns with one open side, and barns with corrugated fibre cement or timber clad/slatted elevations which were deemed, through a supporting Structural Survey, to be structurally sound and capable of conversion to residential.
17. However, having regard to the aforementioned details of the current appeal scheme, I find that none of these proposals are entirely identical to the current proposal in respect of the original barn details and the nature of the proposed conversion work. In particular, this is in regard to the degree of substantiveness of all, or a large part of, the materials of the existing walls, together with the level of certainty provided within the supporting information as to how much of the existing walls and roof would be retained.
18. Notwithstanding that the Hibbitt Judgement is in respect of a barn that was open on 3 sides, it related to a scheme that would have been stripped down to its frame. Having regard to the aforementioned details of the proposal, notwithstanding that the existing building is enclosed on 3 sides, given the nature of the existing materials, and the limited amount of supporting detail provided about the proposed works to the existing walls and roof of the building, I am not persuaded on the basis of the evidence before me, that the proposal would not, in all practical terms, amount to almost starting afresh with only a modest amount of help from the original structure.
19. Therefore, based on the evidence before me and my own observation of Barn 9, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to be permitted development under Class Q.

Prior approval

20. Given my conclusion that the proposal would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required, as it would not alter the outcome of the appeal.

Other Matters

21. In reaching my decision, I have had regard to the appellant's submitted assessment of Class Q applications approved by the Council in respect of other sites, as these raised similar issues as those related to the reason for refusal of the current appeal scheme. On the basis of the evidence before me, I find that none of the referred schemes determined post-Hibbitt are wholly comparable with the appeal scheme, having regard to factors including the detailed design, condition and solidness of the agricultural buildings to be converted, and the

⁶ APP/P3040/W/16/3142052 - Dismissed - 19 May 2016

⁷ APP/W1850/W/18/3203745, APP/V0510/W/18/3198442, APP/R0660/W/18/3199356, APP/Y3940/W/18/3196249, APP/C2708/W/18/3195602, APP/K1128/W/18/3199823, APP/D0840/W/18/3208377, APP/Y2736/W/18/3198404, and APP/Y2003/W/18/3195917.

details and proposed amount of new building works and alterations involved in the residential conversions. In any event, each case must be judged on its own merits, and I must determine the appeal on the basis of the particular circumstances of the appeal site and on the merits of the scheme before me.

Conclusion

22. 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. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the local planning authority to consider in the first instance, and cannot be addressed through prior approval provisions set out under paragraph Q.2(1) of the GPDO.
23. The appeal is, therefore, dismissed.

S Leonard

INSPECTOR