



Appeal Decision

Site Visit made on 10 August 2021

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 01 September 2021

Appeal Ref: APP/Y3940/W/21/3273444

Barn at Knightwood Farm, Lucewood Lane, Farley, Salisbury SP5 1AX

- 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 J Roberts against the decision of Wiltshire Council.
 - The application Ref 21/01575/PNCOU, dated 4 February 2021, was refused by notice dated 19 March 2021.
 - The development proposed is for one agricultural building to be converted to a residential dwelling under Part 3, Class Q of the General Permitted Development Order 2015.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this, I have sought the views of the main parties in writing, and I have taken any relevant correspondence into consideration.

Main Issues

3. Class Q (a) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits 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) of the Schedule to the Use Classes Order. Class Q (b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above.
4. The Council considers that the cumulative total of the building works proposed to facilitate the residential use would fail to comply with the limitations set out in paragraph Q.1(i) of the GPDO. The Council's decision notice also includes further reasons for refusal in relation whether the curtilage would exceed the limits defined within Paragraph X of Schedule 2, Part 3 of the GPDO and to the proposal's effects on protected sites.
5. In light of the above, the main issues in this appeal are:
 - Whether the extent of the building operations proposed would be reasonably necessary to convert the building to a dwelling, having regard to the requirements of the GPDO,

- Whether the proposed change of use would be permitted development under Class Q of the GPDO in respect of the proposed curtilage; and,
- The effect of the proposal on protected sites.

Reasons

Extent of Works

6. 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).
7. The Planning Practice Guidance (the PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted.
8. However, the PPG clarifies 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 use¹. It is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right. This is a matter of fact and degree and requires an element of judgement. My attention has been drawn to the Hibbitt² judgement 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).
9. The appeal building is a substantially sized barn which, at the time of my visit, comprised four bays to the front accessed through metal gates, with a further area to the rear of those bays and which extended for the length of the building. The structure of the barn is formed from steel portal frames with an asbestos cement sheeting pitched roof supported by timber purlins. On three sides, the exterior of the building is covered in vertical metal corrugated sheeting, which is positioned atop of a very low blockwork wall. The appeal building has an earth floor.
10. The Appellant's submitted structural report, which was based on a visual inspection of the building with no trial pits excavated for inspection of any existing foundations, concludes that the building is structurally sound and capable of being converted without affecting its structural integrity. The submissions indicate that the proposal would require a new roof, a new insulated floor and a new dwarf wall on the front northern elevation with new timber cladding above. The report states that new foundation will be required in relation to this new dwarf wall.

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

² Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin).

11. The replacement of the roof, installation of internal walling and floor, construction of new dwarf wall and additional cladding above and installation of windows, individually, would not appear to fall outside the operations given in paragraph Q.1(i) of the GPDO as described above.
12. As noted on my site visit, the existing metal cladding on the western and southern elevation of the appeal building appeared to be heavily damaged with sections that had bowed or bubbled outwards and which left substantial gaps between the sheeting and the existing dwarf wall below. Whilst it is noted that the submissions indicate that the existing metal sheeting is to be retained, I find that it is likely, given its condition and that new windows are to be inserted into that external sheeting, that the sheeting would need to be replaced in its entirety. Once removed, only the skeletal remains of the steel frames, timber purlins and very low dwarf wall on three sides, would remain.
13. Notwithstanding the above, a new northern elevation would be required, and it is understood that this would be constructed with new timber cladding incorporating new windows and openings above a new dwarf wall. The barn is rectangular and substantial in terms of its spread across the site, with the northern and southern elevations forming the longer sides of the rectangle. Whilst it is acknowledged that the insertion of new walls would fall within the types of operations permitted under Q.1(i) of the GPDO, the Appellant's submissions confirm that the new wall on the long elevation of the rectangular building would require a foundation.
14. Foundations are not included in the list of permitted operations under Q.1(i) of the GPDO and, in my view, are not development under Section 55(2)(a) of the Town and Country Planning Act 1990 (as amended) as they would go beyond 'maintenance, improvement or other alteration' of the building and given that by their nature would be beneath the building, could not be considered internal works. Furthermore, whilst it is likely that the steel frame already has some type of foundation, as noted above no inspection of any existing foundations at the site was carried out. Consequently, I cannot be certain that the submissions identify the full extent of foundations required for the proposed development. Nonetheless, the provision of new foundation for the new dwarf wall on the northern side of the building would be building operations that go beyond what would be reasonable for the building to function as a dwellinghouse.
15. In summary of the above, the question of whether the existing barn is capable of conversion rather than constituting a new or rebuild lies at the heart of the matters contested by the main parties. Based on the evidence before me, in my view the works in totality would be more akin to a rebuild rather than a conversion. The appeal scheme would therefore involve operational development which goes beyond that which is Permitted Development and includes the requirement of foundations that fall outside the scope of operations permitted by Class Q of the GPDO. Accordingly, the proposal would not meet the criteria set out in relation to Class Q.1(i) and is not permitted development.
16. The main parties have referred me to numerous appeal decisions which concern permitted development and building operations under Class Q of the GPDO. Whilst I have noted the contents and conclusions of those cited appeals, none of the appeals specifically referred to the issue of the requirement to

include new foundation works. I have only been provided with limited information regarding those appeals and I have, in any event, reached my own conclusions on the basis of the evidence before me.

Curtilage

17. For the reasons set out above, I have found that the proposed works necessary to convert the building would fall outside of those permitted under Class Q of the GPDO. It is not therefore strictly necessary for me to consider whether the proposal would meet the requirements of Class Q(a) with particular reference to the curtilage of the building. However, I note that there is a dispute between the parties, and evidence has been submitted to the appeal, in respect of this matter.
18. Paragraph X of the GPDO interprets Part 3, setting out that for the purposes of Class Q, "curtilage" means (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately around the agricultural building no larger than the land occupied by the agricultural building, whichever is the lesser.
19. The plans submitted in relation to the appeal proposal confirm that the appeal site covers an area of 454.8 square metres with the appeal building occupying a footprint of 227.4 square metres. Consequently, given that the curtilage would be no larger than the footprint of the appeal building, the proposal would accord with the criterion (b) of paragraph X of the GPDO. Nonetheless, the Council have put it to me that criterion (b) would not be the lesser of the two options provided under paragraph X with the site area encroaching into the agricultural field south of the appeal building and as such maintains that more of the area to the west of the building should be included.
20. However, based on the evidence before me and observations made on my site visit, the piece of land immediately beside and around the building which could be considered to be closely associated with and serving the purposes of the building would include the agricultural field to the south of the building and the area of hardstanding to the west and north of the building. Even in the event that the agricultural field was omitted, the area closely associated with and serving the purposes of the building would appear to be larger than the area which is included with the appeal proposal. Consequently, the extent of the curtilage does not fall outside the definition given in Schedule 2, Part 3, Paragraph X of the GPDO.

Protected Sites

21. The evidence before me indicates that the appeal site is located within the catchment of the River Test (as part of the wider catchment to the Solent) and that as such the proposed development could have potential significant effects on the Solent and Southampton Water Special Protection Area, the Solent Maritime Special Area of Conservation, the Chichester and Langstone Harbours Special Protection Area and the Portsmouth Harbour Special Protection Area.
22. The submissions of the main parties are noted in respect of the above, and had I been minded to allow the appeal, it would have been necessary as the competent authority to conduct an appropriate assessment to determine whether the appeal proposal would result in a significant effect on the

protected sites. However, as I am dismissing the appeal on other grounds it is not necessary to consider the matter further. Given my overall conclusion on the first main issue as above, it has not been necessary for me to pursue this matter any further in this instance.

Conclusion

23. For the reasons given above I conclude that the proposal is not permitted development and that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR