
Appeal Decision

Site Visit made on 23 November 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2021

Appeal Ref: APP/J1860/W/21/3275424

Barn off Stud Lane, Abberley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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.
 - The appeal is made by Mr Dick Jeavons-Fellows against the decision of Malvern Hills District Council.
 - The application Ref 21/00193/GPDQ, dated 3 February 2021, was refused by notice dated 31 March 2021.
 - The development proposed is the change of use of an agricultural building to a dwellinghouse.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of an agricultural building to a dwellinghouse in accordance with the application 21/00193/GPDQ made on 3 February 2021, and the details submitted with it, pursuant to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 paragraphs Q(a) and Q(b).

Procedural Matters

2. As there was no description of development on the application form I have extracted and shortened the description of development from that described on the appeal form.
3. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. Both main parties have been given the opportunity to comment on this. My decision is made in the context of the revised Framework and I am satisfied that no interested party has been prejudiced by my approach.
4. The Council has directed me to a grant of prior approval for an agricultural building elsewhere on the farm holding. This is not a matter which is before me as part of this appeal, and it has not influenced my decision.

Main Issues

5. The main issues in this appeal are:

- Whether the proposed development would be granted planning permission by Article 3(1) and Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), with particular regard to Paragraph Q(b) building operations reasonably necessary to convert the building;
- Whether the location of the building makes it otherwise impractical or undesirable for residential use, having particular regard to agricultural activities nearby; and
- The effect of the proposed development upon the character and appearance of the area.

Reasons

Building operations reasonably necessary to convert the building

6. Schedule 2, Part 3, Class Q of the GPDO permits development consisting of Q(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) of the Schedule of the Use Classes Order, and Q(b) building operations reasonably necessary to convert the building.
7. The Planning Practice Guidance (PPG) recognises that for a building to function as a dwelling some building operations will be necessary and should be permitted. Those rights include the installation or replacement of windows, doors, roofs, exterior walls and services. However, it is not the intention 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.
8. The existing building is asymmetrical and comprises a structural steel portal frame sitting on a concrete floor with a first-floor area. The building has a utilitarian agrarian appearance with corrugated metal cladding and sections of breezeblock and concrete walls of varying heights and lengths. The north east corner is open at ground floor level. The roof has a shallow pitch made from corrugated sheets supported by timber purlins sitting on the steel frame. The building is surrounded by fields and wildflower meadows.
9. The appellant has produced a Visual Inspection Report which sets out that the existing building does not require any structural improvements or new structural elements to the existing frame. The report confirmed my own observations on site that the existing structure is of substantial construction.
10. I acknowledge that the appellant's submission does not go into detail regarding the proposed building operations. However, it does indicate that the existing cladding and roof would be retained, and new external finishes would match those of the existing building. The glazing proposed would utilise existing openings although new windows, doors and rooflights would be formed in some areas of the building's fabric.

11. The survey recommends that the walls and floors proposed within the footprint of the building and the loading from these works are kept independent of the existing structural frame. The appellant asserts that these relate to the proposed internal partitions and formation of the first floor. I have not been provided with any credible evidence to lead me to come to a different view on this matter, despite the Council's contention. The PPG is clear that for a building to function as a dwelling it may be appropriate to undertake internal structural works including upper floors. Moreover, internal partition walls are an inevitable consequence of residential conversions of agricultural buildings.
12. The walls proposed to form rooms and the wall separating the proposed dwelling from the agricultural feed and plant store would be internal walls. They would not constitute development as set out in Section 55 of The Town and Country Planning Act (1990) (the Act) and as such are not subject to the limitations set out in paragraph Q.1(i).
13. The works to the building would include new sections of cladding, new glazing, doors and rooflights. These are works that are in line with what is deemed acceptable in the PPG. I am satisfied that the existing structure is capable of supporting the works proposed and that the existing fabric can be incorporated into the scheme. I am also satisfied that the proposed works would not involve extensive rebuilding or go beyond building operations reasonably necessary for the building to function as a dwellinghouse. In any event the replacement of the roof or walls in part or in their entirety is permitted under Q.1(i).
14. The Council has made references that insufficient information has been provided in relation to construction details including how the building would be made watertight, sealing of gaps between rooflights, the fixing of glazing to the existing fabric and joins between the existing building and the proposed external finishes. Despite details not being provided these works, in my view, individually or cumulatively would not be so substantial as to amount to a rebuild or beyond those reasonably necessary for the conversion to take place.
15. In respect of the Burnley¹ and Chichester² appeals the Inspectors found that the schemes were not reliant on the existing buildings and were essentially independent structures within them. Based on the submitted information I am satisfied that the proposed works would not result in an independent structure or go beyond those permitted under Section 55 of the Act. I also note that the existing frame would play a structural and functional role in the development by supporting the existing and proposed cladding, windows, doors and roof.
16. In respect of the Bolton³ appeal the Inspector found the proposals would involve significant demolition and new structural elements and minimal retention of the existing structure. In the Knowl Hill⁴ appeal the Inspector concluded that the proposed works would form new structural elements to support both the existing and proposed frames. Whilst he could not rule out that works to the foundations would not be necessary, it is evident that this stemmed from concerns regarding the condition of the building. The appellant's survey indicates that the building is structurally sound thus no such concerns exist.

¹ APP/Z2315/W/19/3223915

² APP/L3815/W/21/3270825

³ APP/N4205/W/21/3275963

⁴ APP/X0360/W/21/3268513

17. The Inspector in the Chorleywood⁵ appeal considered that there were inconsistencies in the information provided. In addition, new walls would be built in different positions to the existing ones and the proposed roof would have different dimensions to the original roof casting doubt over whether the proposal would be dependent on the host structure.
18. There is a clear distinction between these appeals and the proposal before me which would not involve demolition or new structural elements. Furthermore, the existing walls would be retained, new sections of wall would not be constructed outside of the fabric of the building and there is no evidence to indicate that the proposed works would constitute an independent building or that the existing frame or foundations require strengthening or underpinning.
19. The Council contend that the Awre⁶, Great Whitley⁷, Bank Farm⁸, Heathfield⁹ and Lower Broadheath¹⁰ appeals are also relevant to the scheme before me. However, in these cases the Inspectors took the view that either the existing structures were rudimentary or that the proposed works retained nominal elements of the building. It is apparent that this is not the case in relation to the scheme before me.
20. Furthermore, the Hibbitt¹¹ judgement established that it is a matter of judgement of the decision maker as to where the line is drawn between conversion and a rebuild.
21. There is no substantive evidence before me to indicate that the recommendations of the structural survey would not be followed by the appellant.
22. Whether the proposals would comply with Building Regulations or whether the existing roof is made from asbestos are not matters for my consideration, which is dealt with by other legislation.
23. Therefore, the building is already suitable for conversion to residential use and the proposed building operations would not exceed those reasonably necessary to convert the building set out in Q.1(i).

Impractical or undesirable location or siting

24. There is no specific guidance on what constitutes 'impractical or undesirable' for the purposes of criterion (e) of Q.2, but the PPG provides some further information about considerations which might be relevant.
25. The PPG sets out that impractical reflects that the location and siting would 'not be sensible or realistic', and undesirable reflects that it would be 'harmful or objectionable'. The example of where conversion may be considered impractical is a building adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals is given as an example of a case where conversion may be undesirable.

⁵ APP/P1940/W/20/3255597

⁶ APP/P1615/W/21/3277249

⁷ APP/J1860/W/20/3249818

⁸ APP/D0515/W/19/3238732

⁹ APP/C1435/W/17/3191024

¹⁰ APP/J1860/W/20/3256392

¹¹ Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

26. The Council have raised concerns regarding the impact of grazing livestock and the agricultural store and yard in terms of the potential for noise and disturbance and the potentially dangerous conflict between residential and agricultural vehicles.
27. Stud Lane is a single track that serves both agricultural land and dwellings. Given the character of the area it is likely that domestic and agricultural uses have co-existed in the area for some time. Based on the evidence before me, including the advice of the highways authority, there is nothing to suggest that this has resulted in an unsafe environment along the lane.
28. Whilst the agricultural store and yard would share the same access as the proposed development the appellant has indicated that an existing agricultural route through a neighbouring field to the yard would be retained. The potential for conflict between residential vehicles, pedestrians and farm traffic would be significantly reduced by this arrangement.
29. Given Stud Lane is a narrow lane vehicle speeds along it, and when entering and leaving the site are likely to be very low. The area in front of the building is open with a good level of visibility and the size of the area in front of the building provides sufficient space to ensure that any crossover between farm and residential traffic could be dealt with safely. Furthermore, in rural areas occupants of residential properties would be mindful of encountering some farm traffic.
30. Based on the evidence before me, including my observations on the site visit, I am of the view that the activities associated with the site and surrounding area currently do not constitute intensive farming. There is nothing to indicate that this situation is likely to change in the future. Furthermore, there is no evidence that the store and yard would be used for silage storage or to store dangerous machines or chemicals so as to cause unacceptable harm to the living conditions of future occupants rendering the location of the building undesirable.
31. For these reasons, the proposal would not be harmful to the living conditions of future occupiers in respect of safety, noise and disturbance and would not be undesirable in this respect.
32. Consequently, the location of the building does not make the conversion to residential use impractical or lead me to conclude that the proposal would not be sensible or unrealistic.
33. The Stow Bridge¹² and Busby¹³ appeals referred to by the Council are clearly distinguishable from the appeal site as they relate to buildings that either physically neighbour or form part of a working farm compared to the site which is an isolated building set within a rural landscape.
34. Therefore, the proposal complies with the provisions of Q.2(1)(b) and (e) of the GPDO.

Character and appearance

35. I acknowledge that the proposed development would include both residential and agricultural elements. However, the form of the building would not change

¹² APP/V2635/W/21/3269716

¹³ APP/G2713/W/18/3210974

and whilst new sections of cladding, glazing and doors are proposed it would still largely have the appearance of an agricultural building.

36. The appearance of the dwelling incorporating profiled cladding and glazing would not be out of keeping with its rural setting. Overall, it would successfully integrate into the surrounding rural landscape and would not be unduly domestic or incongruous.
37. Notwithstanding the Council's comments there is nothing to suggest that the external finish comprising a blend of retained and new materials would not result in a high-quality development.
38. Consequently, it would not result in harm to the character and appearance of the countryside. It would accord with the Framework which, amongst other things seeks the creation of high quality, beautiful and sustainable buildings, developments that add to the overall quality of an area and are sympathetic to local character.

Conclusion

39. For the reasons set out above the appeal succeeds and prior approval is granted.

B Thandi

INSPECTOR