



Appeal Decisions

Site Visit made on 16 November 2021

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2022

Appeal A Ref: APP/H1840/W/21/3279032

Agricultural Building (Barn 1), Land Adjacent to Byfield House, Upton Snodsbury Road, Pinvin WR10 2LB

- 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 S Plant against the decision of Wychavon District Council.
 - The application Ref 21/00837/GPDQ, dated 30 March 2021, was refused by notice dated 2 June 2021.
 - The development proposed is the change of use of an agricultural building (Barn 1) into a smaller residential dwelling (C3) and associated operational development under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO).
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Appeal B Ref: APP/H1840/W/21/3279033

Agricultural Building (Barn 2), Land Adjacent to Byfield House, Upton Snodsbury Road, Pinvin WR10 2LB

- 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 S Plant against the decision of Wychavon District Council.
 - The application Ref 21/00838/GPDQ, dated 30 March 2021, was refused by notice dated 2 June 2021.
 - The development proposed is the change of use of an agricultural building (Barn 2) into two smaller residential dwellings (C3) and associated operational development under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO).
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Appeal C Ref: APP/H1840/W/21/3279034

Byfield House, Upton Snodsbury Road, Pinvin WR10 2LB

- 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 S Plant against the decision of Wychavon District Council.
 - The application Ref 21/00839/GPDQ, dated 30 March 2021, was refused by notice dated 2 June 2021.
 - The development proposed is the change of use of an agricultural building (Barn 3) into a two larger residential dwellings (C3) and associated operational development under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO).
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Decision

1. The appeal is dismissed in respect of Appeal B.
2. Appeal A is allowed and planning permission is granted for the change of use of an agricultural building (Barn 1) into a smaller residential dwelling (C3) and associated operational development under Class Q parts (a) and (b) of the

General Permitted Development Order (GPDO) at the Agricultural Building (Barn 1), Land Adjacent to Byfield House, Upton Snodsbury Road, Pinvin WR10 2LB in accordance with the terms of the application, Ref 21/00837/GPDQ, dated 30 March 2021, subject to the following conditions:

- 1) The development hereby permitted must be completed within a period of three years from this decision in accordance with Schedule 2, Part 3, paragraph Q.2(3) of the GPDO.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 20-87-14 rev A; 20-87-11 (drawing number 11) and the Application Form dated 30 March 2021.
3. Appeal C is allowed and planning permission is granted for the change of use of an agricultural building (Barn 3) into two larger residential dwellings (C3) and associated operational development under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO) at Byfield House, Upton Snodsbury Road, Pinvin WR10 2LB in accordance with the terms of the application, Ref 21/00839/GPDQ, dated 30 March 2021, subject to the following conditions:
- 1) The development hereby permitted must be completed within a period of three years from this decision in accordance with Schedule 2, Part 3, paragraph Q.2(3) of the GPDO.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 20-87-12 rev A; 20-87-11 (drawing number 11) and the Application Form dated 30 March 2021.

Background and Main Issues

4. As set out above Appeals A, B and C are three separate appeals relating to three barns on the same site. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the three schemes together, except where otherwise indicated.
5. Schedule 2, Part 3, Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) states that the local planning authority may refuse a prior approval application where 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 the prior approvals.
6. The proposals relate to Schedule 2, Part 3, Classes Q(a) and (b) of the GPDO, which enable the change of use and conversion of agricultural buildings to dwellinghouses. That is subject to certain limitations, paragraph Q.1, and conditions, paragraph Q.2.
7. Paragraph Q.3 of the GPDO defines smaller dwellinghouses as having a floor space of no more than 100 square metres (sqm), and larger dwellinghouses as having a floor space of more than 100sqm and no more than 465sqm. It is not a matter in dispute between the main parties that floor space should be calculated from the internal face of the exterior walls of each unit. The main parties do not dispute that Appeal A (Barn 1) would comprise one smaller dwellinghouse, and that Appeal C (Barn 3) would comprise two larger

dwellinghouses. Appeal B (Barn 2) is submitted as two smaller dwellinghouses, however the Council considers that it would amount to two larger dwellinghouses, each having a floor space of more than 100sqm.

8. Therefore, the first main issue is whether the proposals submitted under Appeal B would not exceed 100sqm each, and hence would comply with the definition in paragraph Q.3 and paragraph Q.1(c)(i)(bb) of the GPDO.
9. In the event that one or both of the proposed dwellinghouses in Barn 2 exceed 100sqm and therefore Appeal B amounts to one or two larger dwellinghouses, it would be necessary to determine whether it consequently complies with paragraph Q.1(b). Accordingly, a related main issue is whether, in combination with Appeals A and C, Appeal B would result in no more than three larger dwellinghouses, and hence would comply with Q.1(b)(i)(aa) of the GPDO.
10. The GPDO states at paragraph Q.1(i) that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or external walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The Council considers that all three appeal schemes would entail building operations that go beyond what is reasonably necessary.
11. Therefore, the second main issue is whether the building operations proposed in Appeals A, B and C would effectively amount to installation or replacement of elements of the buildings beyond that which is permitted by paragraph Q.1(i) of the GPDO.

Reasons

Whether the proposals submitted under Appeal B would not exceed 100sqm each.

In the event that one or both units under Appeal B would exceed 100sqm each, whether, in combination with Appeals A and C, it would result in no more than three larger dwellinghouses.

12. The appellant's appeal statement gives the floor space for Appeal B (units 3 and 4) as 100sqm each. The appellant's final comments acknowledges a typographical error in the scaling of the proposed floor plan and provides updated floor areas of 99.81sqm and 100sqm for these proposed dwellings. A supporting plan shows that areas with a headroom of less than 1.5m were excluded from the total floor space, on the basis that those areas would not be usable floor space.
13. However, in Article 2(1) of the GPDO, floor space is simply defined as the total floor area in a building or buildings. That definition leads me to conclude that reference to the floorspace being "in" a building implies that the calculation should be taken from the interior face of the external walls. The Inspector in respect of the appeal in Stewkley, Buckinghamshire¹ reached the same conclusion and that matter is not in dispute.
14. I accept that there may be specific circumstances where floor space with restricted headroom is excluded from floor space calculations, for example for the purposes of formal valuation. Nevertheless, there is no robust evidence

¹ Ref APP/J0405/X/16/3150189

before me, nor any explicit reference as such within the GPDO, that floorspace with a head height of less than 1.5m should be excluded from a calculation of the total floor space here. Moreover, the GPDO does not specify that the total floor space should only include areas that are usable. That the calculation would ordinarily include the width of internal walls is an indication that parts of the total floor area may not be usable.

15. Consequently, I find that areas of restricted headroom should not be excluded from the total floor area here. The addition of those areas to the stated floor areas of 99.81sqm and 100sqm would inevitably result in floor areas that exceed 100sqm in both instances.
16. I therefore conclude that Appeal B does not comply with paragraph Q.3 or with paragraph Q.1(c)(i)(bb) of the GPDO. Both unit 3 and unit 4 would therefore amount to larger dwellinghouses.
17. Consequently, in combination with Appeal C the cumulative number of proposed larger dwellinghouses would be four. This would exceed the requirement for the total number of larger dwellinghouses to not exceed three. Appeal B would not comply with paragraph Q.1(b)(i)(aa). Accordingly, Appeal B is not permitted development.
18. Excluding Appeal B, the cumulative number of separate larger dwelling houses would be two. Therefore, Appeals A and C taken together would comply with paragraph Q.1(b)(i)(aa). Equally, it is not disputed that Appeal C alone would not exceed a floor space of 465sqm, and would therefore comply with Q.1(b)(i)(bb).

Whether the proposed building operations in Appeals A, B and C would exceed that which is reasonably necessary to function as dwellinghouses

19. As I have concluded that Appeal B is not permitted development, I have not given further consideration to the proposed building operations for Barn 2 under this main issue.
20. Schedule 2, Part 3, paragraph Q.1(i)(i) of the GPDO enables the installation of replacement (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 such building operations.
21. The Planning Practice Guidance (the 'PPG') confirms that the right under Class Q permits building operations which are reasonably necessary to convert the building, which may include those which would affect its external appearance and would otherwise require planning permission. It 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 use.
22. Therefore, it is only where the existing building is suitable for conversion to residential use that the building would be considered to have the permitted development right. The PPG also references that it may be appropriate to undertake internal structural works, including to allow for a floor, insertion of upper floors or internal walls.

23. The Council's case is that the likely requirement for new structural elements to support new internal and external walls, together with installation of windows and doors and replacement of the existing roof, would cumulatively amount to works that represent rebuilding rather than conversion. The Council has brought to my attention the judgment handed down in *Hibbitt v SSCLG* [2016] EWHC 2853 which addresses the extent to which building operations to facilitate residential use may be considered to amount to a conversion as opposed to rebuilding.
24. Neither of the barns has any elevations that are wholly open. Therefore, where new walling is proposed, this relates to infilling of gaps, to greater and lesser extents. In any event, the provision of structural elements does not of itself indicate that works would not comply with paragraph Q.1(i). Whether or not the works amount to rebuilding rather than conversion is a matter of fact and degree.
25. A Structural Inspection of Barns prepared by J Turner and Associates (February 2021) (the 'Report') addresses the proposals within all three appeals. In respect of Appeal A it indicates that the existing steel framework and columns of Barn 1 are in good condition and should be retained. The Report also identifies that replacement of the roof for cosmetic reasons would need to be achieved without increasing the loading to the roof. Part of the building has a concrete floor described as being in very good condition. However it also finds that installation of a new floor in part of the building, extended out to the face of the building, could then support internal walls, which could in turn support the ceiling and insulation.
26. Similarly, in respect of Appeal C the report finds that the steel work of Barn 3 is in good or very good condition throughout. Further that replacement of the roof asbestos cement sheets with light weight metal insulated sheet with plasterboard would not overload the existing structure. Internally, a new floor slab would be laid. Timber stud work would be installed above the concrete thrust panels, with insulation on the internal face.
27. Although no detailed schedule of works has been provided for Appeal A and C, the submitted plans, in combination with the Report and my observations on site, provide sufficient certainty over the extent of the works required. For both Appeals, sections have been provided to indicate how external walls would be added to fill existing gaps, without the need for new foundations. Similarly, sections show how the insulation and stud walling would be added internally and would be self-supporting to avoid overloading the steel structure.
28. The Report concludes that the barns are considered to be suitable for conversion and structurally stable. That is the professional opinion of the surveyor who prepared the Report. Whilst loading calculations have not been provided, on the evidence before me I am satisfied that Barns 1 and 3 could be converted in the manner described, without significant structural alterations and making use of self-supporting internal walling. I note that elements of the buildings would need to be replaced, and there is reference to local rebuilding required in respect of lower level blockwork to one elevation of Barn 3. However, taken as a whole, the works amount to conversion and are not so significant as to amount to rebuilding.
29. The Council acknowledge that the barn to which the Hibbitt judgement related was largely open on four sides. In contrast, I observed that Barn 1 is enclosed

on two sides, with the other two sides having a good degree of enclosure. Barn 3 is fully enclosed on one side, with a good degree of enclosure on the side closest to the site boundary, as well as the side adjoining the lean-to that connects it with Barn 2. The elevation facing the opposite way to Byfield House has the least existing enclosure. However, due to the degree of enclosure to both Barn 1 and Barn 3, the proposals before me and the circumstances relevant to the proposal in the Hibbitt judgement are not directly comparable.

30. For the above reasons, I conclude that the proposed building operations are not so extensive as to mean that the proposal cannot reasonably be described as a conversion. I therefore conclude that Appeals A and C are permitted development with reference to the requirements of Schedule 2, Part 3, paragraph Q.1(i) of the GPDO.

Other Matters

31. Although the Council's delegated decision reports state that the Council object to Appeals A and C under paragraph Q.2(f) which relates to the design or external appearance of the proposals, that objection is explained with reference to the extent of changes required to the external fabric of the building and whether or not that amounts to a rebuild rather than conversion. No specific concerns were raised in relation to the proposed design or choice of proposed materials.
32. The proposed design and external appearance of the barns under Appeal A and C is shown on the submitted elevations. These include reference to retention of some existing materials, provision of new materials to match existing, as well as to some areas of new render. On the evidence before me, I am satisfied that the proposals would be suitable in respect of their design and external appearance.

Conditions

33. For the avoidance of doubt, I have imposed the condition specified under Schedule 2, Part 3, paragraph Q.2(3) of the GPDO which requires that proposals are completed within three years of the date of this prior approval decision. Prior approval may be granted unconditionally or subject to reasonably related conditions. In that context it is necessary to impose a condition requiring adherence to the supporting plans and details for certainty, and to ensure compliance with the relevant requirements of Class Q.

Conclusion

34. For the reasons given, I conclude that the proposals submitted under Appeal B would not be permitted development. Appeal B should therefore be dismissed and prior approval is not granted.
35. For the reasons given, I conclude that the proposals submitted under Appeal A and Appeal C would be permitted development. Appeal A and Appeal C should therefore be allowed and prior approval is granted.

Rachel Hall

INSPECTOR