



---

# Appeal Decision

Site visit made on 8 March 2022

**by K Stephens BSc (Hons) MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>th</sup> March 2022**

---

**Appeal Ref: APP/E3715/W/21/3286929**

**Barn adjacent to Nethercote Barn, Nethercote Road, Nethercote, Flecknoe  
Warwickshire, CV23 8AS**

- 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, Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr T Cresswell against the decision of Rugby Borough Council.
  - The application Ref R21/0876, dated 6 August 2021, was refused by notice dated 30 September 2021.
  - The development proposed is described as 'Alterations, including removal of structures on the east and west elevations, and re-use of agricultural building to form dwelling.'
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Class Q(b) of the above GPDO permits development consisting of 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 to the Use Classes Order, together with building operations reasonably necessary to convert the building to a dwellinghouse.
3. Under Class Q, a determination must first take place as to whether the proposal constitutes permitted development. Paragraph Q.1(a) – (m) sets out what is not permitted development. In the event development is permitted, paragraph Q.2(1) sets out a number of conditions and requires the Council to assess the proposal against a number of prior approval matters (a) to (g).

## Main Issues

4. The Council has raised no concern about the prior approval matters. However, it contends that the building works would not comply with paragraph Q.1(i) of the GPDO such that proposed development would not be permitted development.
5. In light of this, the main issue is whether the proposed building operations would exceed what is reasonably necessary to convert the agricultural building into a dwellinghouse for it to function as a dwellinghouse.

## Reasons

6. The appeal site comprises a steel portal-framed former agricultural grain store with a solid concrete floor. It is a single block approximately 18 x 18 metres

and up to two storeys (about 4.5 metres) in height. It has corrugated fibre cement sheet cladding on the pitched roof and part of the walls. The other parts of the walls are covered in square profile horizontal steel sheeting, although the front elevation is timber clad.

7. From my observations on site and of the inside of the building I found the building was enclosed and intact on all sides, and appeared to be in relatively good order and fairly weather-tight. This is reinforced by the appellant's Structural Survey<sup>1</sup> which found the building to be generally in good condition, inside and out. Furthermore, the survey found all main structural members of the steel frame to be in a satisfactory condition and the frame is deemed to have the appropriate structural integrity for the proposed residential purpose. The concrete floor was also generally of good condition and level. A single storey timber covered entrance and a small lean-to at the rear would be removed. There is also guttering and downpipes.
8. The proposed plans show that part of the ground floor would become residential floor space with an entrance foyer, gym, pool and utility. A first floor would be added to provide the main living accommodation and 4 bedrooms. The submitted evidence and annotated plans show that the proposed building operations would involve removing all the sheet cladding from the roof and the walls. The steel frame and floor would remain, but the frame would be re-clad in different materials - a mixture of cedar cladding and vertical profiled metal sheeting. A glazed lantern would be installed along the full length of the roof ridge and new windows and doors would be installed, including full-height glazing on the ground floor.
9. Despite the good condition and structural integrity of the steel frame the issue here is whether the proposed works amount to more than is reasonably necessary to convert the building to a dwellinghouse.
10. Building works are allowed as part of Class Q to convert buildings, but 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
  - (i) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
11. However, these restrictions do not indicate how much of the walls or roof can be replaced, or even imply that they can all be replaced in their entirety for the purposes of a conversion. This must be a planning judgement based on the facts of the case, the building in question, and the scope and extent of the proposed building operations.
12. It is not unreasonable for building works to need to be undertaken to buildings to convert them to other uses from which they were originally designed and

---

<sup>1</sup> Holbrook Design Services Ltd dated 19 July 2021

used for. The Planning Practice Guidance (PPG) explains<sup>2</sup> that the right does permit building operations which are reasonably necessary to convert the building and includes, amongst other things, the installation or replacement of windows, doors, roof and exterior walls. It goes on to state 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.

13. The *Hibbitt*<sup>3</sup> High Court judgement provides further assistance on the matter as it considers the concepts of 'conversion' and the extent to which building operations may take a building beyond a conversion such that it becomes a re-build or 'fresh build'. It is clear from the judgement in 2016 that the wording of PPG paragraph 105 has since been revised<sup>4</sup>. The current wording of paragraph 105 no longer includes references to "construction of new structural elements for the building" or that "the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use".
14. The fact that the appeal steel structure has appropriate structural integrity or that no new structural members would be required is not in itself determinative. The judgement, however, remains relevant and makes clear the building operations should not be so extensive as to amount to a 'fresh build', for example by reducing the building to a skeletal structure before reconstruction into a dwelling.
15. The existing building is currently enclosed on all sides with a roof and has been professionally found to be in generally good condition, with a steel frame of appropriate structural integrity. The submitted structural survey does not venture to discuss the proposed building operations, although does recommend some relatively minor work to the steel frame. In my view the building would be capable of conversion as it stands, although some works would obviously be needed to make it suitable for habitation, such as adding doors and windows and insulating the walls and roof, which could be done internally as the appellant suggests is possible, and even adding internal partitions and a first floor, as is the case here.
16. These proposed recladding works would not be applied to parts of the building. Instead, all of the wall and roof claddings would be removed from the entire building to reveal a metal skeleton frame and a concrete floor. Then there would be a wholesale replacement of all the walls and roof with different materials to encase the metal frame on all four sides and the roof. *Hibbitt* said the test was one of substance and planning judgement. In my view the total recladding of a skeleton frame would amount to substantial building operations that would be of a scale and magnitude that would be tantamount to a fresh build – not a conversion – and would be similar to the example described by the Judge in *Hibbitt*. Very little of the existing building would be retained. The retention of the structural frame would, nonetheless, prevent the development from being a new build.

---

<sup>2</sup> In paragraph 105 Ref ID: 13-105-20181615 entitled "What works are permitted under the Class Q permitted development right for change of use from an agricultural building to residential use?"

<sup>3</sup> *Hibbitt v SSCLG & Rushcliffe BC* [2016] EWHC 2853 (Admin)

<sup>4</sup> Revision date 15 June 2018

17. Accordingly, the works would exceed what is reasonably necessary, the proposal would not be a conversion, and consequently would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO.

### **Other Matters**

18. The Parish Council raises the matter that the agricultural building should have been demolished as part of previous planning permissions. The appellant confirms, with a submitted legal opinion, that the stable block has not been completed and as such the existence of the agricultural building remains lawful and is therefore not exempt for consideration under Class Q. The Council has not commented. However, the lawfulness of the building is not a matter I need concern myself with in this appeal

### **Conclusion**

19. For the reasons above the appeal is dismissed.

*K Stephens*  
INSPECTOR