



Appeal Decision

Site visit made on 26 April 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2022

Appeal Ref: APP/R4408/W/21/3289136

Elmhirst Farm, South Lane, Cawthorne, Barnsley S75 4EF

- 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 (as amended).
 - The appeal is made by Mr R Bennett against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2021/1276, dated 20 August 2021, was refused by notice dated 11 November 2021.
 - The development proposed is described on the application form as conversion of agricultural building to form dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) 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 Class Q(a) and Class Q(b), so the proposal relates to the change of use to a dwellinghouse as well as associated building operations.
3. The Council has described the development as 'Change of use of agricultural building to dwellinghouse (C3) (Prior Notification)'. The appellant has also used this description on the appeal form. This is a more accurate description of the proposal than that used on the application form, and I have therefore determined the appeal on this basis.

Main Issues

4. The main issues are:
 - whether the proposal would be permitted development under Schedule 2, Part 3, Class Q1 of the GPDO; and
 - if so, whether or not prior approval would be required in accordance with the conditions set out in paragraph Q.2(1) of the GPDO.

Reasons

5. The barn is a steel portal framed building with a ridge height of around 6.65 metres and an eaves height which, due to the cat slide roof, varies between around 3.5 and 5.3 metres. The lower walls comprise concrete block work and there is a mix of timber and metal sheet cladding on the upper walls. The roof is also metal sheeted. There is a large opening to the front, and one to the side. The proposal would involve the creation of a four-bedroom dwelling with a small outdoor amenity area.
6. Paragraph Q.1(i) of the GPDO lists the building works permitted to facilitate the change of use of an agricultural building to a dwellinghouse. It states that development is not permitted if it would consist of building operations other than: the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out these building operations.
7. Both parties have referred to the High Court judgement in the Hibbitt¹ case in which it was held that, for the permitted development rights under Class Q(b) to apply, the building must be capable of conversion to residential use without operations that would amount to a rebuild of the existing structure or a fresh build, as such works would go beyond what could be considered as a conversion.
8. This case is referenced in paragraph 105 of the Planning Practice Guidance (the PPG), which states 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 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 right. 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.
9. There are differences between the building in Hibbitt, which although also a steel portal-framed barn was open on three sides, and that which is the subject of this appeal. Nonetheless, Hibbitt sets principles which are applicable to this appeal.
10. The application was accompanied by a Structural Report² prepared by a chartered structural engineer. The report was based on a visual survey at ground floor level undertaken in relatively poor lighting conditions. It states that *'it is fully expected that the framework can be retained without the need for re-construction'* and the structural condition of the building from a visual inspection *'appears to be satisfactory such that it can be used as a basis for supporting the proposed conversion'*.

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

² Prepared by M J Yates, ref 21.01 dated 12 January 2021

11. Based on the submitted evidence, the creation of the dwelling would be achieved by removing all existing cladding, sheeting, timber rails and purlins, together with the blockwork walls and the roof. New walls would be constructed in between the steel columns, which would be retained, using stone at the lower level and cedar cladding at the upper level, with windows and doors inserted. The roof would be grey metal sheeting. There would also be internal works including the construction of an inner leaf which would support the additional first floor and roof loads, and a new concrete floor. The proposal would therefore leave very little of the existing building structure remaining.
12. I acknowledge that the individual elements of the external works summarised above fall within those specified in paragraph Q.1(i) and would be reasonably necessary for the structure to function as a dwelling. However, the extent of work proposed for the building to function as a dwelling, including elements such as installing an inner leaf which would have at least a partly structural role, is such that the proposal would only partially rely upon the existing building. Having regard to the Hibbitt case and paragraph 105 of the PPG, the totality of the works proposed would exceed what could reasonably be described as conversion and would be so extensive as to comprise substantial rebuilding. This goes beyond what is reasonably necessary for the conversion of the building into residential use. The fact that the building is not in a very dilapidated state or open sided does not alter this.
13. I note the appellant's interpretation of the Structural Report's findings in terms of the structural stability of the building. However, my view is that there is some ambiguity about this in the submitted evidence.
14. This includes the statement in the Structural Report that asserts: '*overall strength and stability will be more than adequately augmented by the introduction of the new first floor, infill panel walls and internal partitions*'. The Structural Report also notes that, whilst the rust on the steelwork is largely superficial, there may, nevertheless, be some localised areas where a measure of repair may be necessary such as the diagonal tubular bracings, and that there should be a check that any rust has not penetrated deeper into less accessible areas such as connection plates between steel members. In addition, the appellant's evidence³ states that the existing substantial concrete floor slab will easily take the load of the internal works. However, based on my observations, there is only a relatively small part of the building which has a concrete floor slab.
15. These points introduce reasonable doubt as to whether the building would be structurally strong enough to take the loading associated with the works reasonably necessary to provide for a residential use.
16. The appellant has highlighted a number of similar applications submitted within the area. However, I do not have details of these cases and so I cannot be sure that the circumstances that led to their approval are the same or very similar to the proposal for me to draw any direct comparison.
17. The appellant states that the existing blockwork could be retained. However, there is no substantive evidence that the block work is structurally sound or could support any loading required. Furthermore, if the block work was to be clad in stone, then the proposal may not conform with Paragraph Q.1(h) of the

³ Planning Support Statement dated August 2021 and Appeal Statement prepared by Alistair Flatman Planning

GPDO, which states that development is not permitted if it would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. The retention of the block work rather than the use of stone on the lower walls would alter the appearance of the proposed development, and there is therefore a risk that it would be so changed that to consider it would deprive those who should have been consulted on the changed development of the opportunity of such consultation.

18. Moreover, the proposed steel flue pipe is not included in the list of building operations within paragraph Q.1(i). The inclusion of the flue pipe is not reasonably necessary, in the sense of it being essential, for the building to function as a dwellinghouse. The proposal would not therefore comply with one of the applicable limitations and restrictions within the GPDO.
19. Taken as a whole, the building operations proposed to provide a building suitable for residential use would be extensive and would not therefore amount to a conversion or change of use of an agricultural building. Therefore, the proposal would not be permitted development having regard to the requirements of Schedule 2, Part 3, Class Q(a) of the GPDO. Furthermore, based on the evidence before me and my own observations of the building, I find that the proposed works would not be limited to building operations reasonably necessary to convert the building. Consequently, the proposal would not satisfy the permitted development requirements of Schedule 2, Part 3, Class Q(b) of the GPDO.

Whether prior approval is required

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.

Conclusion

21. For the reasons given, 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. The appeal should therefore be dismissed.

F Wilkinson

INSPECTOR