



Appeal Decision

Site visit made on 22 February 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2022

Appeal Ref: APP/J1860/W/21/3286139

Barns at Wood Farm, Burnthorne Lane, Dunley, Stourport on Severn, Worcs DY13 0TP

- 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, Paragraph Q.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr John Corbo against the decision of Malvern Hills District Council.
 - The application Ref 21/01239/GPDQ, dated 25 June 2021, was refused by notice dated 23 August 2021.
 - The development proposed is Notification for Prior Approval for the proposed change of use of an agricultural building to 3 dwelling houses including operational development .
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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(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the proposed change of use of an agricultural building to 3 dwelling houses including operational development at Barns at Wood Farm, Burnthorne Lane, Dunley, Stourport on Severn, Worcs DY13 0TP in accordance with the terms of the application, Ref 21/01239/GPDQ , dated 25 June 2021, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b) of the above Order, and subject to the following condition:
 - 1) The development hereby permitted shall be carried out in strict accordance with the recommendations set out in Paragraph 1.1 Mitigation Strategy of the Bat Survey Report carried out by Focus Ecology Ltd dated September 2019 and submitted with this application

Application for Costs

2. An application for costs was made by Mr John Corbo against Malvern Hills District Council. This application is subject to a separate decision.

Main Issue

3. The main issue is whether the proposed building operations are to the extent reasonably necessary to carry out the conversion of the building.

Reasons

4. Subject to a number of criteria, Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an

agricultural building to use falling within Class 3 (dwellinghouses) of the Schedule to the Town and Country Planning (Use Classes Order) Order 1987 (as amended) and any building operations reasonably necessary for converting the buildings. The appeal proposal relates to the change of use of 2 barns to 3 dwellings.

5. 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 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 building operations, as listed above.
6. The Planning Practice Guidance (the PPG) provides further clarification, including 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, such that 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.
7. No guidance is provided as to what 'reasonably necessary' may mean. However, development is only permitted under Class Q to convert the building and it seems to me that this means the building needs to be sufficiently structurally sound and substantially built to be capable of accommodating the proposed works without needing to be rebuilt. The difference between works amounting to rebuilding and conversion is discussed in the case of *Hibbitt vs Secretary of State for Communities and Local Government*¹ to which I have had regard. However, unlike the building in the Hibbitt case, the appeal buildings have fully clad external walls on all sides and cannot be considered to be skeletal structures.
8. The appeal proposal relates to the change of use of 2 barns to 3 dwellings. The main barn is a single storey, open plan, 4 bay steel portal frame building with a concrete floor. It would be converted to form 2 separate dwellings, with the masonry and external cladding walls retained. The smaller barn is two storey and comprises concrete block masonry, metal cladding and pitched, corrugated roof. An internal ladder provides access to a first-floor timber deck. This barn would be converted to form an open plan ground floor with additional rooms in what is currently a dilapidated single storey lean-to at the side. Bedrooms in the roof space would be accessed by a central staircase.
9. It is the Council's view that the proposed development would involve works that would go beyond what would be considered as reasonably necessary for the conversion of buildings to form dwellinghouses. They are concerned that the existing structure would not be capable of accommodating additional loading and that a further structure would be required in order to support the conversion.
10. The evidence submitted includes a Construction Method Statement and three reports from RCH Structural Engineers. These include details of loadings, trial pits and foundations and indicates that both buildings are structurally sound. Internal walls would be provided as part of the conversion and the submitted

¹ [2016] EWHC 2853 (Admin)

statements have clarified that these would not be loadbearing or support the existing structure. Additionally, the reports provide calculations that demonstrate the existing structures and floors to have sufficient loadbearing capacity in order to withstand the addition of glazing and internal walls. The existing structures would be sufficient to provide the main loadbearing element for the dwellings on the existing foundations, and no new structural elements to the external fabric of the building would be required.

11. The Council consider that these reports contradict that submitted with a previous application and appeal² at the site. However, the submission has clarified these matters, detailing the purpose of new internal walls, providing details of how glazing would be installed within the cladding, and that when discussing the 'frame' this relates to the existing frame and no new structural frame would be provided. I see no reason to doubt the findings of these reports and find that they provide sufficient information in terms of structural matters.
12. Both parties have drawn my attention to other appeal decisions involving the conversion of buildings to dwellinghouses under Class Q. However, I do not have full details before me of these schemes and cannot determine whether the circumstances are the same as the proposed development. I have therefore determined the proposed development on its merits and on the evidence before me.
13. For the above reasons, I conclude that the building operations would be reasonably necessary for the building to function as a dwellinghouse. Consequently, I find that the proposal would comply with the permitted development criteria set out in Class Q.1 (i) of the GPDO.

Other Matters

14. The Parish Council and local residents have raised concern in relation to the loss of agricultural buildings and land, highway safety and sustainability. Whilst the proposal would involve the loss of agricultural buildings and its location not within a settlement, the GPDO is supportive of conversions of such buildings to dwellings and it is therefore logical to assume that this would lead to a loss of agricultural buildings and that these would be in rural locations where access to services is limited. Nevertheless, the proposed development would be near to an existing dwelling with a good access on to the local highway network. With regards to highway safety, I note that the Highways Authority offered no objection to the proposed development, and I have little substantive evidence that the proposed development would harm highway safety.

Conditions

15. Any change of use granted under Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO is subject to the condition Q.2(3) which specifies that the development shall be completed within a period of 3 years starting with the prior approval date. The Council have also suggested a condition relating to biodiversity mitigation. The submitted bat survey details that a roost was confirmed in one of the barns, as such in order to ensure that the proposed development protects the roosting bats I consider it necessary to attach a condition relating to adherence with the bat survey and mitigation.

² APP/J1860/W/20/3263591

Conclusion

16. Sufficient evidence has been submitted to demonstrate that the proposal complies with the conditions, limitations and restrictions associated with Class Q of the GPDO. For these and the above reasons, the appeal scheme would comply with the description of permitted development as it is set out by Class Q. The appeal should therefore be allowed.

Tamsin Law

INSPECTOR