



Appeal Decision

Site visit made on 21 March 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 21st July 2022

Appeal Ref: APP/R0660/W/21/3287883

Greenfields, Plumley Moor Road, Plumley WA16 9SB

- 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 GPDO')
 - The appeal is made by J Williamson & Sons against the decision of Cheshire East Council.
 - The application 21/2787M, dated 19 May 2021, was refused by notice dated 13 July 2021.
 - The development proposed is described as 'Change of Use of Agricultural Buildings to Dwellinghouses (Class C3), and for building operations reasonably necessary for the conversion'
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule, Part 3, Class Q of the GPDO for the change of Use of Agricultural Buildings to Dwellinghouses (Class C3), and for building operations reasonably necessary for the conversion at Greenfields, Plumley Moor Road, Plumley WA16 9SB, in accordance with the terms of the application 21/2787M, dated 19 May 2021, subject to the conditions listed in Schedule 1.

Application for Costs

2. An application for costs was made by J Williamson & Son against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. For the purposes of my decision I have used the description of the proposal given on the appeal form, as no such description was provided on the original application form.

Main Issue

4. The main issue is whether the proposed development falls within the terms of the permitted development rights under Article 3, Schedule 2, Part 3, Class Q of the GPDO.

Reasons

5. Article 3, Schedule 2, Part 3, Class Q(a) and (b) of the GPDO permits the change of use of an agricultural building to a dwellinghouse together with building operations reasonably necessary to enable the conversion. This is subject to various limitations and conditions in paragraphs Q.1 and Q.2.

6. Paragraph Q.1.(i) states that such 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 such building operations.
7. Planning Practice Guidance (the PPG) states the permitted development does not include rebuilding work beyond what is reasonably necessary for conversion to residential use. The existing building must therefore be suitable for conversion to residential use to benefit from the permitted development right. Whether the proposal constitutes a conversion or rebuild is a matter of fact and degree, determined on the circumstances of the case.
8. The site comprises a steel agricultural building, clad with metal sheets above a low brickwork wall. The main parties agree the proposal would not require extensive demolition or the replacement of the building's primary structure. Nevertheless, the appellant has outlined both internal and external works that would be required, which the Council contends would cumulatively indicate the building is not currently suitable for conversion. The appellant has submitted a structural survey in this regard.
9. Internally the proposal would involve provision of a new floor slab, loadbearing walls, enhancement to purlins, and insulation. However, the PPG states that for the building to function as a dwelling under Class Q it may be appropriate to undertake internal structural works, specifically referring to allowing for a floor or internal walls. While the enhancement to the purlins is required due to the increase in roof loading, in line with the findings of the appellant's survey, I consider that this would relate to works reasonably necessary for the proposed conversion. In addition, while the survey states that the steel portal frame with "need checking" from my observations on site this appears to relate to verification, rather than being suggestive of any form of structural defect.
10. Externally, the installation of windows and doors has been proposed, which is expressly permitted by paragraph Q.1.(i). Reference has also been made to a secondary structure. However, the appellant's survey is clear that this is to allow the doors and windows to be fixed within the cladding. Given that these openings are expressly permitted, and that based on the information before me this work is not required to provide a structural support for the conversion as a whole, I find that it would be reasonably necessary to convert the building to a dwelling.
11. The proposal would also involve cladding and capping. However, these would not comprise structural elements, with the primary structure of the building remaining. While repairs to brickwork are also required, I observed these to be limited rather than comprising a significant rebuild of the structure such that it is reasonable such works would be undertaken as part of the conversion.
12. I find that although the proposal would include some work to address the condition of the building, these works, even taken cumulatively, would not amount to a rebuild. Rather, they would relate to works that fall within the scope of paragraph Q.1(i), including works reasonably necessary to convert the building to a dwelling. As a result, the proposal would consist of

development that would fall within the terms of a conversion rather than complete demolition and re-building of the current structure.

13. The Council has outlined that the proposal complies with the other restrictions and limitations specified in Paragraph Q.1. Based on my observations, I have no reason to disagree.
14. I therefore conclude that the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Other Matters

15. The parties have referred to *Hibbitt v SSCLG* [2016] EWHC 2853, which held that the building must be capable of conversion to residential use without new structural elements. I am satisfied that the proposal complies with the findings of this case, and note that the appeal building is distinguishable from that in the *Hibbitt* case as, based on my observations, it does not currently comprise what could be described as a skeletal structure.
16. My attention has been drawn by the appellant to a variety of appeal decisions and planning applications relating to similar development within the area. However, I have limited information on the precise extent of works required in each of these examples or their comparability to the circumstances here, such that I can afford only limited weight to these examples.
17. The appellant has stated that the appeal building has been granted prior approval for change of use of the building to hotel use under the provisions of Schedule 2, Part 3, Class R of the GPDO. However, the considerations in relation to Class R differ from those under Class Q. As such, and for the avoidance of doubt, I have not attached any weight to this fallback position in the determination of this appeal.

Conditions

18. Paragraph Q.2(3) stipulates that development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. Paragraph W(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval.
19. I have had regard to the conditions suggested by the Council. To ensure certainty and clarity, it is necessary to impose a condition setting out the approved plans. Further conditions are necessary to address the risks associated with unexpected contamination given the previous use of the site, and to ensure that any soil imported to the site is not contaminated.
20. A condition relating to the approved noise impact assessment is also necessary in the interests of living conditions of surrounding residents, along with conditions to ensure that the construction of the development avoids disturbance to birds, and that suitable features for nesting birds and roosting bats are put in place, in the interests of biodiversity.

Conclusion

21. For the above reasons, I conclude that the appeal should be allowed, and prior approval granted.

C Rafferty

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan Drawing No. 1330/J200133/003.1 dated 5 November 2020; Location Plan Drawing No. 1330/J200133/002. Dated 5 November 2020; Plans and Elevations as Existing Drawing No. Location Plan 1330/J200133/001.1 dated 4 November 2020; Plans Scheme Drawing No. 1330/J200144/005.1 dated 14 April 2021
2. Prior to first occupation, the mitigation measures outlined in the acoustic report (J003147/4678/2/TD, 17/12/2020, submitted under ref:20/5716M) shall be implemented in full. The measures implemented shall be retained thereafter.
3. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping or for filling and level raising shall be tested for contamination and suitability for use. A methodology for testing these soils shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto site. The methodology shall include information on the source of the materials, sampling frequency, testing schedules and criteria against which the analytical results will be assessed (as determined by risk assessment). Testing shall then be carried out in accordance with the approved methodology. Relevant evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto the site.
4. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
5. No development hereby permitted shall take place during the bird breeding season of 1 March to 31 August in any year, unless a survey of the site for nesting birds has been undertaken immediately beforehand. A four metre exclusion zone shall be maintained around any nest identified in the survey, within which no development shall take place other than outside of the bird breeding season. In addition, before the dwelling hereby permitted is first occupied, a scheme for incorporating features for nesting birds and roosting bats on site shall have been submitted to the local planning authority, approved in writing by the local planning authority, and implemented. Approved features shall thereafter be retained