



Appeal Decision

Site visit made on 7 June 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2022

Appeal Ref: APP/J1860/W/22/3294223

Sinton Green Farm Barn, Sinton Green, Nr Hallow, Worcester WR2 6NP

- 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 and Mrs M James against the decision of Malvern Hills District Council.
 - The application Ref 21/01353/GPDQ, dated 14 July 2021, was refused by notice dated 10 September 2021.
 - The development proposed is conversion of steel and timber frame barn to a single dwelling, with part of the barn removed to create external amenity space. Siting and location of the building is as existing.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs was made by Mr and Mrs M James against Malvern Hills District Council. This application is the subject of a separate Decision.

Background and Main Issues

3. Schedule 2, Part 3, Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (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 the above basis that the Council refused to grant the prior approvals.
4. 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 an agricultural building to a dwellinghouse. That is subject to certain limitations, paragraph Q.1, and conditions, paragraph Q.2.
5. The main issue is whether it has been demonstrated that the proposed building operations would be reasonably necessary to convert the building to residential use under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

6. 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.
7. 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.
8. In determining the appeal I have had regard to the judgement handed down in *Hibbitt v SSCLG* [2016] EWHC 2853 (referred to hereafter as the Hibbitt judgement). This addresses the extent to which building operations to facilitate residential use may be considered to amount to conversion of the relevant agricultural building. Briefly summarised, it explains that where the nature of works proposed would be so fundamental as to effectively result in a rebuilding of the relevant building based on planning judgement, this is not permissible. It further clarifies, however, that the extent of works proposed is not in itself dispositive but rather a factor in determining whether the works proposed are part of a conversion.
9. The appeal barn is comprised of two adjoining parts. A barrel vaulted steel structure adjoins a mono-pitched timber framed structure. On the long elevation facing into the farm, three out of four bays are open, with all other elevations enclosed. The majority of the barn is clad in corrugated metal which forms the barn walls, with a corrugated metal roof. Part of the elevation that faces onto the road includes a section of horizontal wood cladding. The existing cladding is proposed to be retained but is in need of repair. A coating would be applied to improve its appearance and durability.
10. A summary scope of works by Mark James Complete Building Services (June 2021) (referred to in the appeal submission as the Construction Management Statement) outlines that the appeal scheme incorporates new blockwork walls to be constructed on the building's internal boundaries. These are proposed to be tied to the existing framework and are described as providing an insulating layer as well as supporting the new suspended floor at first floor level.
11. A structural appraisal of the appeal building is provided by Protheroughs (February 2021) (the SA), which includes previous structural analysis by Latter Ramsay Consultants (August 2020). The SA assesses the capacity of the principal loadbearing elements of the existing building to sustain the external works required for its residential conversion. It concludes that the existing steel and timber structure is capable of supporting loads associated with the proposed residential conversion. It also includes comparative calculations which indicate that the existing concrete slab floor would be capable of supporting the permanent loading levels predicted for ground and first floor conversion to residential. In addition, it finds that the predicted loading associated with full

height glazing would be less than that applied by a tractor wheel, and therefore that the existing slab is capable of withstanding sufficient point loading.

12. However, the corrugated cladding that forms the existing barn walls is relatively lightweight in nature, with no existing blockwork walls even at low level. It therefore appears reasonably likely that the proposed blockwork walls, whilst positioned internal to the retained cladding, would contribute to the structural integrity of the proposed residential accommodation rather than being purely for insulation and internal subdivision of rooms.
13. Structural works are not prohibited by Class Q of the GPDO. Moreover, as internal works, the blockwork walls could be exempted from the definition of development under s55(2)(a) of the Town and Country Planning Act 1990, provided such operations did not amount to rebuilding. However, it was held in the Hibbitt judgement that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or effectively create a new building. In this instance, the proposed blockwork walls and glazing would effectively amount to rebuilding of all four barn walls. No robust evidence is before me to indicate otherwise.
14. I acknowledge that the SA appears to have been prepared by suitably qualified professionals. Moreover, planning must operate proportionately in terms of the information it requires from those proposing development. However, no explicit reference is made to the proposed blockwork walls within the SA. The architect's proposals appended to the SA, show a previous iteration of the scheme involving more wholesale replacement of existing cladding with an insulated timber frame and timber cladding. The extent of full height glazing on the front/east elevation shown at appendix E to the SA is also much less than the three full bays of full height glazing now proposed. I note also that the scope of works in the Construction Management Statement is dated subsequent to the completion of the SA. Therefore, it is unclear whether the findings in the SA take into account the full scope of works proposed through the appeal scheme.
15. In addition, in respect of the existing building foundations, the SA confirms that no investigation has been undertaken to determine the depth and form of the existing foundations. The SA references that the subsoil in the geographical area of the site tends to comprise of clay which might indicate foundations of 0.8m – 1.0m would be suitable. The SA concludes that the absence of obvious damage to walls that could be attributed to foundation movement might indicate that the foundations are adequate and do not require strengthening. However, it states that this would be confirmed at a later stage when trial holes would be provided for building control purposes. Consequently, there is a considerable degree of uncertainty over the adequacy of any existing foundations and their ability to support the extensive conversion works.
16. Strengthening of existing foundations does not fall within the building operations listed under paragraph Q.1.(i) of the GPDO. Nevertheless, a degree of underpinning of foundations might reasonably be considered to fall within the definition of 'maintenance, improvement or other alteration' in some circumstances, and would therefore be exempted from the meaning of development under s55(2)(a) of the Town and Country Planning Act 1990. Although the Council has not provided any counter evidence from a similarly

qualified professional, the onus is on the applicant to provide sufficiently convincing evidence of the acceptability of the proposal with respect to the requirements of the GPDO. Accordingly, as a matter of fact and degree, there is considerable doubt over whether existing foundations are suitable for the proposed conversion without strengthening works on a scale that would fall outside of general maintenance, improvement or other alternation.

17. I have considered a number of other appeal decisions put forward by the appellant. In relation to the appeal decision at Holmley Lane (Ref APP/R1038/W/18/3200789), I acknowledge, as did the inspector in that case, that certain internal works, including structural works, are not prohibited by Class Q. However in that instance, full site investigation works were carried out and concluded that the proposed internal skin of loadbearing blockwork could be constructed on the existing floor slab with no new foundations necessary. Whereas this appeal is not supported by such conclusive evidence, therefore I am unable to reach the same conclusion.
18. The appeal decision for Bedport Farm (Ref APP/X1118/W/19/3228101) emphasises that for works to be permitted under Class Q, the existing building should be sufficiently structurally sound to be capable of accommodating the proposed works without needing to be rebuilt. However in this appeal, I have reasoned that extensive rebuilding would be necessary and evidence in respect of whether the existing ground floor slab and foundations are suitable for the full scope of works proposed is inconclusive.
19. With respect to the Lane End Farm appeal (Ref APP/C2708/W/18/3195602), the existing building was described as being faced in blockwork at the lower level on three sides with timber boarding above and open on the fourth side. Consequently, internal walling was to provide insulation and would be non-loadbearing and self-supporting, with no first floor proposed. In that case, the Inspector was satisfied that evidence supported the findings that the existing building was structurally capable of accommodating the proposed conversion.
20. Similarly in relation to the proposal at Little Eastbury Farm (Ref APP/J1860/W/22/3290129), the existing walls comprised sections of breezeblock and corrugated sheets at higher level, and there were existing mezzanine areas. The Inspector found that the proposal would not include a significant level of new construction or structural elements. However in this case, existing walls are entirely corrugated metal, requiring new block walls on all elevations which would support the proposed mezzanine.
21. Also, in respect of the appeal at Byfield House (Ref APP/H1840/W/21/3279032 and linked appeals), the decision references evidence comprising sections to indicate how the external walls would be added to fill existing gaps, without the need for new foundations. Further, reference is made to the sections showing how the insulation and stud walling would be added to be self-supporting to avoid overloading the steel structure. Whereas in this appeal, details of the internal blockwork are highly limited and evidence that the building is structurally capable of conversion without extensive rebuilding is not persuasive. Therefore, the circumstances in those above appeals are not sufficiently similar to alter my reasoning.
22. Summary details have also been provided for a number of Class Q prior approval schemes granted by Wychavon District Council. However, the information provided in respect of those schemes does not indicate whether the

proposals and supporting evidence were sufficiently similar to that which is before me. As such, those approvals do not alter my reasoning.

23. Accordingly, I conclude that it has not been demonstrated that the proposed works would be reasonably necessary to convert the building to residential use. Therefore, the proposed development would not comply with paragraph Q.(b) of Schedule 2, Part 3, Class Q of the GPDO. As the proposal would not comprise permitted development, it is not necessary for me to consider compliance with other relevant limitations and conditions of the GPDO, such as its design and external appearance.

Conclusion

24. For the reasons given above, I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR