



Appeal Decision

Site visit made on 1 July 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th July 2022

Appeal Ref: APP/W1850/W/22/3290043

Beauchamp House, Church House Lane, Acton Beauchamp WR6 5AQ

- 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 Andy Fowler against the decision of Herefordshire Council.
 - The application Ref 213674, dated 30 September 2021, was refused by notice dated 9 November 2021.
 - The development proposed is described as 'Class Q prior notification to enable conversion of barn into a single dwelling'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the original planning application form.

Main Issue

3. The main issue is whether the proposal would be permitted under Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO).
4. In particular, it is necessary to consider the following criteria of Class Q:
 - Whether the site is in agricultural use and was used solely as part of an established agricultural unit (Q(a) and Q.1 (a)); and
 - Whether the required building operations are to the extent reasonably necessary for the building to function as a dwellinghouse (Q.1 (i)).
5. There is no dispute that the other criteria of Class Q are satisfied. Consequently, there is no need to give them further consideration in this decision.

Reasons

Agricultural Use

6. Class Q (a) identifies that the Permitted Development must involve development consisting of the 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 C (dwellinghouses).

7. Paragraph Q.1(a) of the GDPO further states that development is not permitted by Class Q if the site was not used solely for agricultural use as part of an established agricultural unit on 20 March 2013 or, in the case of a building which was in use before that date, but was not in use on that date, when it was last in use.
8. To evidence the agricultural use, the appellant has provided single payment papers relating to May 2012 and May 2013 for the business 'ARG Fowler and Co'. In addition, a remittance invoice, dated November 2012 is also provided for ARG Fowler that demonstrates payment for the picking of Bramley Apples. A further invoice dated November 2016, for feed wheat, provides specific evidence of a link between 'ARG Fowler and Co' and the site address.
9. The payment papers and invoices do not categorically demonstrate that the appeal building was solely in agricultural use on the qualifying date, but instead that an agricultural business activity has been taking place at the site between the specified periods. Nevertheless, this evidence, alongside the scale and agricultural nature of the barn and surrounding land, suggests that on the balance of probabilities, the barn was in agricultural use on 20 March 2013.
10. The Council's view that the proposal does not relate to an agricultural building is based on the presence of a mobile home that it found to be located within the barn. The mobile home was still evident within the barn during my site visit and was being used for the storage of various domestic paraphernalia. It is unclear when the mobile home was brought into the barn, though the appellant highlights that it is for personal storage and is transitory in nature. There is no evidence before me to suggest otherwise.
11. Notably, the mobile home takes up only a limited extent of the barn's floorspace, such that it does not prevent the wider use of the barn for agricultural purposes. Therefore, even if, part of the appeal building has been used for non-agricultural purposes, it appears that it would be of a modest scale and insufficient to demonstrate a material change in use of the barn from its agricultural use. Indeed, no application for planning permission or certificate of lawfulness for an alternative use in connection with the barn have previously been made. There is also no evidence of any enforcement action from the Council against any breaches of planning control or any evidence of abandonment of the agricultural use.
12. Overall, based on the evidence before me, I have no substantive reason to doubt that the development does not comply with Paragraph Q.(a) or Q.1(a) of the GDPO.

Whether or not the works would amount to a conversion

13. Class Q(b) of the GPDO permits building operations reasonably necessary to convert the relevant building to a use falling within Class C3 (dwellinghouses) subject to limitations. Paragraph Q.1(i) states that development under Class Q(b) 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 dwelling house.
14. The Planning Practice Guidance (PPG) advises that the right assumes that the agricultural building is capable of functioning as a dwelling and that it is not the

intention of the permitted development right to allow rebuilding work that would go beyond what is reasonably necessary for the conversion of the building to a residential use. As such, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to benefit from the permitted development rights.

15. Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement based on fact and degree of an individual case. My attention though has been drawn to an appeal referred to as the Hibbit Case¹, which relates to the difference between conversions and rebuilding under Class Q. The case indicates that an agricultural building may be so skeletal and minimalist that the works required to alter it to a dwelling would be of such a scale that it would be tantamount to a new build or rebuild.
16. The appeal barn is a steel framed structure consisting of 7no. steel portal frames, with a roof clad in cement fibre corrugated sheets. The building contains 6no. bays, the end two of which are open. The other 4no. bays are partially enclosed to one side by steel plate gates, whilst the northern elevation comprises blockwork walls to approximately 2m in height with corrugated sheeting above, up to roof level. The east elevation of the barn is fully clad with 2 types of corrugated sheets.
17. The submitted structural report identifies that the structural steelwork is in a good condition and that subject to cleaning off and repainting areas of rust, the steelwork is suitable for use in the proposed development.
18. However, the structural report acknowledges that woodwork or other parts of the structure which are covered, unexposed or inaccessible have not been inspected. Notably, the building's roof structure comprises wood purlins. No method statement has been provided alongside the proposals that details the full extent of work. As such, it is unclear how much of the roof timbers would be retained, with no indication of what would need to be repaired, strengthened or replaced. Additionally, the appellant's evidence refers to the roof being restored, but is not explicit as to what this constitutes. The plans suggest replacement roof covering throughout.
19. In any case, it is apparent from the submitted plans that the alterations proposed are likely to involve a significant overhaul of the existing fabric of the building. This includes significant areas of new walls to those bays that are currently open and where new elevations would be created. Again, the submitted plans and evidence are somewhat vague in terms of identifying the level of existing blockwork and sheeting that may be retained. However, based on the information before me and my site visit it appears that the external fabric of the building would largely be replaced. Existing elements of the building that would comprise part of the proposed dwelling are therefore deemed to be modest and predominantly skeletal.
20. Based on the evidence before me, I conclude that the extent of works proposed would go beyond what could reasonably be described as conversion and they would fall outside the scope of permitted development rights under Class Q(b).

¹ Hibbit and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin).

Other Matters

21. The appellant has referred to the Council's Technical Guidance Note on Class Q proposals and states that it supports the extent of works that are being proposed. Although the advice, and the GPDO, allow for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services. However, this only sets out the types of works that may be acceptable. In this instance, the issue is that the extent of those works would not entail a conversion of the building.

Conclusion

22. Although the development is considered to comply with criteria in part Q.(a) of the GPDO, it is deemed to go beyond the scope of permitted development rights established under Class Q(b) of the GPDO. Accordingly, the appeal is dismissed.

Lewis Condé

INSPECTOR