



Appeal Decision

Site visit made on 8 March 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2022

Appeal Ref: APP/J1860/W/21/3284438

Glebe House, Bayton DY14 9LS

- 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 appeal is made by Mr and Mrs M Cook against the decision of Malvern Hills District Council.
 - The application Ref 21/01416/GPDQ, dated 24 July 2021, was refused by notice dated 15 September 2021.
 - The development proposed is the change of use of an agricultural building to a dwellinghouse.
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Decision

1. The appeal is dismissed.

Application for costs

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

Procedural Matter

3. The description of development in the banner heading above has been taken from the appeal form. It simply and adequately describes the development proposed.

Main Issues

4. The main issues in this appeal are:
 - Whether the proposed development would be granted planning permission by Article 3(1) and Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), with particular regard to Paragraph Q(a) whether the appeal site is an agricultural building and Q(b) building operations reasonably necessary to convert the building; and
 - The effect of the proposed development upon the character and appearance of the area including upon the special interest of nearby heritage assets, namely Grade II listed Glebe House.

Reasons

Whether the appeal site is an agricultural building

5. Schedule 2, Part 3, Class Q of the GPDO permits development consisting of Q(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) of the Schedule of the Use Classes Order, and Q(b) building operations reasonably necessary to convert the building.
6. Part 3 of Paragraph X of the GPDO defines an 'agricultural building' as a building used for agriculture and for the purposes of a trade or business. Whether or not the appeal building was an agricultural building on or before the relevant date of 20 March 2013 is a matter of fact and degree based on the evidence submitted and the individual merits of the case.
7. The appeal site is formed of a barn and associated land around it. The barn neighbours an agricultural field and sits close to Glebe House.
8. The appellants have provided a letter from a tenant farmer stating that he used the barn and associated land for the rearing and lambing of sheep on the relevant date of 20 March 2013. The Council have not contested its contents and I have no reason to do so either.
9. Whilst the Council do not dispute the contents of the letter, they contend that insufficient information has been submitted to demonstrate an agricultural use. They also contend that as the barn is being used for the storage of domestic items it is no longer being used for agricultural purposes and has become separated from the agricultural unit.
10. It is acknowledged that the barn is being used for the storage of miscellaneous items, but this does not mean that the lawful use of the barn has deviated from an agricultural one or that it has become severed from the agricultural unit. There is nothing to suggest that an agricultural use or trade could not start up again. Furthermore, I am not aware that planning permission has been granted for an alternative use at the site since 2013.
11. As such, I find that the use of the site has not materially changed from its lawful agricultural use and that the storage of items has not superseded the lawful use of the site.
12. The Council has made reference to three appeal decisions¹ which they consider relevant. However, based on the information before me I am not persuaded that they are comparable to the scheme before me. As such, these decisions do not lead me to reach a different conclusion on this matter.
13. On the balance of probabilities, the building was lawfully last used solely for agricultural use in connection with an agricultural unit on the relevant date of 20 March 2013. I, therefore, conclude that the criteria under Paragraph Q(a) are satisfied and permitted development rights apply to the site.

Building works reasonably necessary to convert the building

14. The Planning Practice Guidance (PPG) recognises that for a building to function as a dwelling some building operations will be necessary and should be

¹ Appeal Ref: APP/H1840/W/16/3162932, APP/C1435/W/17/3191024 and APP/J1860/W/17/3178383

permitted. Those rights include the installation or replacement of windows, doors, roofs, exterior walls and services. However, it is not the intention to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to 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.

15. The appeal building has a timber frame and is constructed from a mix of blockwork and timber cladding with a concrete floor. The building appears to be of a robust construction.
16. The appellant has produced a Building Survey Report (BSR) which considers different aspects of the building. Whilst the foundations have not been exposed, the BSR sets out that the existing timber posts are sound. It also sets out that the blockwork is in sound condition with no signs of cracking or settlement damage and the timber boarding is in a reasonable condition. Whilst the BSR indicates that the fabric of the building would need to be upgraded including insulation, damp-proofing, weatherproofing and natural lighting it is suitable for conversion.
17. I acknowledge that the appellant's submission does not go into detail regarding the proposed building operations. However, the work permitted within Class Q can, in some cases, be extensive including demolition, replacement or new walls, doors, windows, roofs and utilities.
18. The proposal would not include a significant level of new construction, demolition or new structural elements and the barn would not be reduced to an extent that it would be considered a skeletal or minimalist structure. In my judgement, the proposed works individually and cumulatively would not be so extensive to go beyond the normal understanding of conversion, despite the need for localised repairs. In other words, it would not amount to a substantial re-build or fresh build.
19. Subsequently, I find that the building is capable of conversion and sufficient information has been provided to demonstrate that the proposed works would not exceed those that would be reasonably necessary to convert the building to residential use.
20. I am also mindful of the PPG which is clear that statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications and is a light-touch process. It is important that a local planning authority does not impose unnecessarily onerous requirements on developers and does not seek to replicate the planning application system.²
21. The Council has drawn my attention to a number of appeals which they consider relevant to the scheme before me. In the Valelands Farm³, Hillhampton Farm⁴ and Oldbury Farm⁵ decisions the Inspectors took the view that either the existing structures were rudimentary or that the works proposed did not retain much of the host building. It is apparent that this is not the case in relation to the scheme before me.

² Reference ID: 13-028-20140306

³ APP/C1435/W/17/3191024

⁴ APP/J1860/W/20/3249818

⁵ APP/J1860/W/20/3256392

22. Therefore, the proposed building operations would not exceed those reasonably necessary to convert the building set out in Q.1(i).

Character and appearance including effect on heritage assets

23. It is incumbent upon me to pay special regard to the desirability of preserving a building or its setting and any features of special architectural or historic interest which it possesses. The Framework advises that significance can be harmed through development within the setting of a heritage asset.
24. Glebe House is an imposing two storey red brick dwelling with a complex of associated buildings. Despite its set back from the road it is a dominant built feature within the street scene.
25. The appeal building is constructed from blockwork and cladding with limited openings and is viewed as a utilitarian agricultural building that is consistent with its rural surroundings. Whilst separated by hedgerow the appeal building sits in the foreground of Glebe House and are seen together when travelling along the road from the west and the neighbouring fields. The barn has a low-key appearance and sits comfortably within its agricultural setting.
26. I acknowledge that the existing blockwork and timber cladding would be retained, and the proposed development would utilise existing openings at either end. However, the number and form of openings, in the western elevation, would introduce incongruous modern style features that would domesticate the appearance of the building failing to respect the rural character of the building.
27. Whilst localised, due to the building's elevated position close to the road, it would be very apparent from the surrounding area appearing as an intrusive and discordant form of development despite the presence of the hedge. It would diminish its agrarian setting and unacceptably alter the appearance of the site into something more suburban. This would detract from the agrarian setting of Glebe House and its significance. Furthermore, even though limited in extent the associated plot and domestic paraphernalia would further add to the domestication of the area.
28. For the reasons given, the proposal would fail to be in keeping with, and would detract from, the rural character of the site and the setting of Glebe House and its significance.

Planning Balance

29. I have given considerable importance and weight to the resultant harm. However, this harm is less than substantial in the Framework's terms, as it relates to part of its setting and would not physically alter the listed building itself.
30. In these circumstances the Framework states that such harm should be weighed against the public benefits of the proposals. The proposed development would have the benefit of creating one new home and would secure a viable use for the building, but these public benefits would be limited. The harm that would be caused to the significance of the listed building would be greater and would outweigh the benefits.

31. The proposed development would not justify the loss of harm to the significance of the heritage asset and would conflict with the Framework's historic environment protection policies as a result.
32. The appellants question the Council's current five-year housing land supply position. The Council have not commented in respect of their supply. Whilst I have paid regard to this matter the proposed development would make a modest contribution to local housing and the local economy. However, even if the Council was unable to demonstrate a five-year supply of housing these modest benefits would be significantly and demonstrably outweighed by the harm that I have identified.

Conclusion

33. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR