



Appeal Decision

Site visit made on 12 July 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2022

Appeal Ref: APP/Y3940/W/21/3286333

Golden Acres, Grittleton, Chippenham SN14 6AF

- 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 (as amended).
 - The appeal is made by Mr R Payne against the decision of Wiltshire Council.
 - The application Ref PL/2021/07919, dated 23 July 2021, was refused by notice dated 20 September 2021.
 - The development proposed is described as, "Prior Approval of Proposed Change of Use of Agricultural Building to Dwellinghouse (Use Class C3) and for Associated Operational Development".
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Decision

1. The appeal is dismissed.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

3. The description of development given in the planning application form is, 'Please see full drawing attached and further details in the planning statement'. Therefore, the description of development provided in the banner header above has been taken from the Planning Statement (dated July 2021). This differs from that shown on the appeal form and decision notice. The latter identifies the proposed development as the, 'Prior Notification under Class Q for a Change of Use of Existing Agricultural Building to Two Dwelling Houses with Associated Building Operations'. I have used this description in my consideration of the appeal since it best describes the proposed development in precise and concise terms.
4. Under Article 3(1) and Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), planning permission is granted for the conversion of agricultural buildings to dwellinghouses subject to limitations and conditions. The Council refused to grant prior approval as to paragraph Q.(b), making reference to the scope of the building operations proposed.

Main Issue

5. The main issue is whether the proposal would be permitted development under Q.(b) of Class Q of Part 3 of Schedule 2 of the GPDO, having particular regard

to whether the building operations proposed would be reasonably necessary to convert the building to a dwellinghouse.

Reasons

6. The appeal site relates to an open-fronted steel framed agricultural barn, the land immediately adjacent to it, and an access way leading to the barn. The rear and much of the side walls of the barn consist of blockwork with timber boarding above. The roof consists of corrugated cement sheets.
7. The 3 structural reports provided¹ concur that the main elements of the barn are in fundamentally sound order. The structural calculations and photographs provided in those reports support this conclusion, as does my own observations of the barn.
8. With respect to the works proposed, it was held in *Hibbitt v SSCLG*² that the concept of “conversion” is found in the overarching provisions of Class Q (not in Q.1) and it thereby introduces a discrete threshold issue such that if a development does not amount to a “conversion” then it fails at the first hurdle and there is no need to delve into the exceptions in Q.1, and that the concept of conversion has inherent limits which delineate it from a rebuild.
9. In this regard, the proposal would retain the roof, the existing part concrete block walls and the steel frame, amongst other elements. However, whilst the appellant has highlighted that the existing timber cladding which is proposed to be replaced is not structural, its replacement would involve a type of building operation covering a very large proportion of the barn, and would introduce materials which are essential for the building to function as a dwellinghouse.
10. The appellant has suggested that the timber cladding could be retained by way of a planning condition but as the cladding incorporates gaps for ventilation, it is unclear if the current cladding would provide adequate insulation. Accordingly, it would not be reasonable to impose such a condition. Hence, the replacement of the extensive areas of timber cladding would mean that much of the existing fabric of the barn would not be retained for the proposed conversion.
11. In this case, taking into account the conclusions of the structural reports, the existing structure of the barn would provide the necessary structural support for the new elements proposed. Taking account of section 55 of the Town and Country Planning Act 1990 (as amended) (the Act) and the relevant Planning Practice Guidance³, I note that internal works, including internal walls, are not generally development. Specifically, section 55(2)(a)(i) of the Act refers to the carrying out for the maintenance, improvement or other alteration of any building of works which affect only the interior of the building.
12. In this regard, the proposal would involve a substantial amount of internal walling, including along 3 sides of the barn, and across much of the currently-open part of the barn. This internal walling would also establish a divide between the 2 units proposed and would create a number of rooms within the units. Considering that section 55(2)(a)(i) of the Act does not explicitly relate

¹ Structural Appraisal Report, Croft Surveyors (date of inspection 6 October 2020); Structural Report, BTA Structural Design Ltd (date of inspection 25 June 2021); Structural Report, BTA Structural Design Ltd (date of inspection 25 June 2021) (Revision B, 3 November 2021).

² [2016] EWHC 2853

³ Paragraph 13-105-20180615

to rebuilding, and that when considering the discrete threshold referred to in *Hibbitt* it is necessary to consider the totality of the proposed works when making an assessment under Q.(b), in my view the considerable extent of these internal walls would be such that they would amount to development.

13. Moreover, although I note that the primary purpose of these internal walls is to provide insulation to comply with Building Regulations, as the barn is open-fronted and has large gaps on both sides near its front, a considerable amount of new walling, windows, and timber cladding would be created in those areas. As the existing barn is not capable of functioning as a dwelling in its present state due to the presence of these open areas, in effect a whole new frontage to the barn would be created, in addition to the infilling required to the sides near the front of the barn.
14. As such, whilst the overall structure of the barn would be retained, in my view as a matter of fact and degree the extent of the new elements which would be created would mean that the proposal would be tantamount to a fresh build, rather than a genuine conversion which would be principally based on the currently-existing elements of the barn. Hence, all the building operations mentioned above, when considered in combination, would not be reasonably necessary to convert the building, in conflict with Q.(b).
15. The appellant has made reference to other applications under Class Q, including those at Splatt Farm⁴, Glendale Farm⁵, Whitney Farm⁶, Parshalls Farm⁷, and Chilliswood Farm⁸. However, as no plans have been provided for those applications a meaningful comparison with the appeal proposal cannot be made.
16. Similarly, whilst the appellant has provided a table comparing application reference 20/07331/PNCOU with the appeal proposal and a photograph has been provided in relation to application reference 20/01912/PNCOU, and copies of appeal decision Refs APP/Q3305/W/20/3258069 and APP/A2470/W/20/3262931 have been provided, as no plans have been provided for those cases it is not possible to ascertain the full extent of the building operations involved. Accordingly, none of those examples causes me to change my findings.
17. Considering my findings above in the light of *Hibbitt*, it is not necessary to consider whether the proposal would comply with paragraph Q.1 of Class Q of Part 3 of Schedule 2 of the GPDO, as the proposal would fall outside the permitted development right by virtue of its non-compliance with Q.(b).
18. I therefore find that the proposal would not be permitted development under Q.(b) of Class Q of Part 3 of Schedule 2 of the GPDO, having particular regard to whether the building operations proposed would be reasonably necessary to convert the building to a dwellinghouse.

Other Matters

19. Had my findings in relation to the main issue been more favourable, it would have been necessary to address representations on the other issues raised by

⁴ 45/19/008

⁵ 50/19/00089

⁶ 19/02358

⁷ 21/00895/PAMB

⁸ 42/21/0041/CQ

local residents in more detail. However, as I am dismissing the appeal for other reasons and since it will not affect the overall outcome, I make no further comments on these matters.

20. Other matters have been advanced in favour of the proposal, including in relation to the location of the site relative to nearby services and facilities and factors relating to the living conditions of the future occupiers of the proposal. However, the GPDO offers no discretion; its requirements are a matter of law. As such, these matters do not change my findings on the main issue in this appeal.

Conclusion

21. As the proposal would not be permitted development under Q.(b) of Class Q of Part 3 of Schedule 2 of the GPDO, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR