



Appeal Decision

Site visit made on 27 September 2022

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th October 2022

Appeal Ref: APP/U1105/W/22/3295913

Greenfields, Sidmouth Road, Aylesbeare EX5 2JJ

- 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 Eric Everleigh against the decision of East Devon District Council.
 - The application Ref 21/3022/PDQ, dated 15 November 2021, was refused by notice dated 11 February 2022.
 - The development proposed is change of use of 2no. existing, agricultural barns to 3no. dwellings under Class Q.
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Decision

1. The appeal is allowed and approval is granted under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of 2no. existing, agricultural barns to 3no. dwellings under Class Q at Greenfields, Sidmouth Road, Aylesbeare EX5 2JJ in accordance with the terms of the application, Ref 21/3022/PDQ, dated 15 November 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77 of The Conservation of Habitats and Species Regulations 2017.
 - 2) The development must be completed within a period of 3 years starting with the date of this decision.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 2019-P-001 REV 01 – Location Plan; 2019-P-002 REV 01 – Existing Site Plan; 2019-P-010 REV 01 – Existing Ground Floor Plan; 2019-P-100 REV 01 – Proposed Site Plan; 2019-P-200 REV 02 – Proposed Ground Floor Plan; 2019-P-310 REV 00 – Large Barn Elevations – Sheet 01; 2019-P-311 REV 00 – Large Barn Elevations – Sheet 02; 2019-P-301 REV 00 – Medium Barn Elevations – Sheet 01; 2019-P-302 REV 00 – Medium Barn Elevations – Sheet 02; 2019-P-355 REV 00 – Large Barn Sections; 2019-P-351 REV 00 – Medium Barn Sections; 2019-P-360 REV 00 – Detail Section.

Background and Main Issue

2. Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits development

consisting of 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), and, under Class Q(b), building operations reasonably necessary to convert the building for that purpose. This is subject to a number of situations where such development is not permitted, listed under Paragraph Q.1. The Council raises no concerns in respect of the proposal complying with the criteria in Q.1, but considers that the development is not permitted by Class Q(b) due to the extent of the works necessary to enable the existing buildings to function as dwellinghouses.

3. Consequently, the main issue is whether the building operations involved in the development would be to an extent reasonably necessary to convert the buildings to a use falling within Class C3 (dwellinghouses).

Reasons

4. The proposal relates to two single-storey former poultry buildings that are closely associated with a two-storey house in a countryside location. The western of the two is referred to on the submitted details as the Large Barn, and the eastern is labelled as the Medium Barn. They are both timber-framed with concrete floors and shallow sloping pitched roofs covered in corrugated metal sheets. The walls of the buildings largely comprise timber panelling, with some steel sheeting, above low concrete block walls. It is proposed to convert the Large Barn to two dwellings, and the Medium Barn to a single dwelling.
5. The application was accompanied by a Structural Assessment (the SA), which found that the main timber portal frames for both buildings were in good or reasonable condition, and would be capable of supporting the roof of the converted building with only localised repairs. The timber framed walls of the Large Barn were found to be in reasonable condition, but some areas of rot were noted in the Medium Barn. The concrete ground bearing slab of the Medium Barn was found to be in good condition, but that of the Large Barn could not be inspected due to a thick covering of straw. Overall, the SA concluded that both buildings are suitable for conversion, subject to a schedule of upgrading works and localised repairs. As the SA was prepared by a suitably qualified professional, and there is no evidence to cast doubt on its findings, I give it significant weight in my decision.
6. The elevational drawings submitted with the application specify that the existing corrugated metal roof sheeting would be retained over both buildings, although this would be subject to a condition survey identifying local areas for repair or replacement. Some areas of plywood wall-cladding would be replaced, but most of the timber and corrugated metal cladding is shown to be retained, albeit with the same proviso regarding repair or replacement, following a condition survey. A detailed section shows how the necessary insulation for the roof, walls and floors would be provided within the existing structure of the buildings.
7. The Council has raised doubts about the suitability of the buildings for conversion, and contends that the extent of the necessary works would result in a rebuild, which would not be permitted by Class Q. In this regard, my attention is drawn to the Hibbitt case¹, which considered the difference

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

between conversion and rebuilding. However, that case involved a proposal to convert a steel framed barn which was largely open on three sides, and the proposed building works included the construction of all four exterior walls. The appeal proposal, by contrast, involves buildings that are fully enclosed on all sides, and the submitted details specify the retention of the external roof and walls, where possible.

8. Whilst the Council questions the feasibility of retaining the existing roofing materials, I saw that the corrugated metal sheets on both buildings were in reasonable condition. There were some small holes that would require repair or local replacement, and some work would be required to cap the ridges to make them watertight. However, there is no evidence to indicate that wholesale replacement would be necessary. I saw that some of the wall cladding that is indicated for retention, on both buildings, would, realistically, require replacement. However, the gable ends of both buildings are in suitable condition for retention, and significant areas of the side walls of both buildings could be incorporated into the scheme of conversion. Consequently, the starting point for conversion would not be a skeletal structure, as in the Hibbitt case.
9. As well as the replacement of some of the wall cladding, the external proposals would also involve the insertion of doors, windows and rooflights. Class Q(b) of the GPDO permits building operations that are reasonably necessary to convert the building to a dwellinghouse. Paragraph Q.1(i) specifies that the installation or replacement of windows, doors, and exterior walls are not excluded from this definition. The proposed works would be necessary to provide enclosure to the living accommodation, and to allow light and air to the internal rooms. They would, therefore, be necessary to allow the building to function as a dwelling, so would be permitted development.
10. The proposals would also involve a significant level of internal construction work to achieve the thermal requirements of the Building Regulations, including new floors over the existing concrete slabs, and insulated timber wall and roof panels between the existing structural frames. However, the Planning Practice Guidance advises that internal works are not generally development, and for the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, or internal walls, which are not prohibited by Class Q. Therefore, the interior lining of the structure would fall within the scope of the permitted development rights conferred by Class Q of the GPDO.
11. Consequently, whilst a significant amount of work would be required to render the buildings suitable for residential accommodation, the works would either be permitted by Class Q.1(i) of the GPDO, or would be internal work that would not constitute development. Furthermore, the proposal would not involve any new structural elements, and the existing buildings would remain largely intact. The resultant buildings would not be fundamentally different in their external appearance. Bearing all of these factors in mind, I find that the works would constitute conversion of the buildings rather than re-building.
12. For the above reasons, I conclude that the building operations involved in the development would be to an extent reasonably necessary for the buildings to function as dwellings. Consequently, the proposal would comply with the requirements of paragraph Q.1(i) of the GPDO.

Other Matters

13. The application site falls within the influence of the Exe Estuary Special Protection Area and Ramsar site, and the East Devon Pebblebed Heaths Special Area of Conservation/Special Protection Area (the SPAs), which are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations). On the evidence before me, I cannot rule out that the proposal would have significant effects on the features of interest of the SPAs, due to an increase in recreational use resulting from the occupants of the dwellings.
14. Regulation 75 of the Habitats Regulations provides that it is a condition of any planning permission granted by the GPDO, that development which is likely to have a significant effect on a European site, alone or in combination with other plans or projects, must not be commenced until the developer has received written approval from the local planning authority under regulation 77. I have therefore imposed a condition to this effect for the avoidance of doubt.

Conditions

15. Planning permission granted for the change of use of agricultural buildings to dwellinghouses under Schedule 2, Part 3, Class Q of the GPDO must be completed within a period of 3 years, starting with the prior approval date, to comply with condition Q.2(3). I have therefore imposed a condition to this effect for the avoidance of doubt. Schedule 2, Part 3, Paragraph W(12) states that, where prior approval is required, the development must be carried out in accordance with the details approved by the local planning authority. As I am allowing the appeal against the local planning authority's refusal of prior approval, I have imposed a condition requiring that the development is carried out in accordance with the approved plans.

Conclusion

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

Nick Davies

INSPECTOR