



Appeal Decision

Site visit made on 31 August 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2022

Appeal Ref: APP/P1940/W/21/3274015

Bullsland Farm Bullsland Lane, Chorleywood WD3 5BG

- 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 S Hayes against the decision of Three Rivers District Council.
 - The application Ref 20/2584/PDA, dated 30 November 2020, was refused by notice dated 25 January 2021.
 - The development proposed is Prior Notification: Change of use of agricultural building to a single dwelling with operational works to building and associated curtilage.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr S Hayes against Three Rivers District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Because the description of the development proposed is unclear on the application form, I have taken this from the Council's decision.
4. During the appeal the appellant has submitted an additional drawing 'Proposed Building Section'. Because this is intended to address the Council's first reason for refusal, and does not alter the nature of the proposal, I have therefore accepted this in determining the appeal and I do not consider that the interests of any party have been prejudiced by my having done so.

Background and Main Issues

5. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO) sets out that development is classed as permitted development if it consists of: (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 to the Use Classes Order; or (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule. This is subject to a number of situations where such development is not permitted, listed under paragraph Q.1, and, subject to compliance with Conditions, as set out under paragraph Q.2.

6. In this case, having regard to the Council's submissions it has raised issues in relation to the lack of access and curtilage for the new dwellinghouse and the exclusions in paragraph Q.1(i).
7. Paragraph X of the GPDO says that for the purposes of Part 3 "curtilage" means, (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.
8. Paragraph Q.1 of the GPDO states that: 'Development is not permitted by Class Q if (i) the development under Class Q(b) would consist of building operations other than— (i) the installation or replacement of—(aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse;’.
9. Against that background, the main issue is: Whether the proposed change of use constitutes permitted development pursuant to Schedule 2, Part 3, Class Q of the GPDO, having particular regard to: (a) whether information in relation to access and curtilage is necessary to meet the requirements of Q (a); and (b) whether the building operations are reasonably necessary for the building to function as a dwellinghouse having regard to Class Q.1 (i).

Reasons

a) Access and curtilage

10. As already stated, Class Q of the GPDO grants permitted development for: 'Development consisting of— (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 to the Use Classes Order.
11. As submitted, the red line on the application is limited to the extent of the barn and does not incorporate any access or other land around it.
12. The procedure for prior approval under Part 3 is set out under Part W. Paragraph (2) of the GPDO. This states that: 'The application must be accompanied by— (b) a plan indicating the site and showing the proposed development;’
13. Whilst Class Q relates to the change of use of a building and any land within its curtilage, there is nothing before me to suggest that the application would not be valid because it does not incorporate the access or a curtilage to the agricultural building.
14. Therefore, an applicant could choose to make an application, whereby the permission for the change of use of the agricultural building is secured first and its curtilage and access secured thereafter. However, there is no certainty of such a phased approach to development occurring, and in my experience more often than not, the access and curtilage are defined for these types of applications.
15. Indeed, the lack of details in relation to access and curtilage may have implications for paragraph Q2(1) in terms of deciding whether prior approval is

needed with regard to (a) Transport and highways impacts of the development and (e) Whether the location or siting of the building makes it otherwise impractical or undesirable for a change of use to take place.

16. Nevertheless, the Council's second reason for refusal does not identify any particular issue arising from the lack of information pertaining to the access and curtilage for the proposed dwelling. As such, in this case, information in relation to access and curtilage is not necessary to meet the requirements of Q (a) of the GPDO.

b) Building operations

17. As established within the Planning Practice Guidance (PPG)¹, building works are allowed under the right permitting agricultural buildings to change to residential use, but the right assumes that the agricultural building is capable of functioning as a dwelling. Building operations can include those that would affect the external appearance of the building; though it is not the intention to allow rebuilding work that would be go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, only when the existing building is already suitable for conversion to residential use would it be considered to have the permitted development right.
18. My attention has been drawn to the Hibbitt case which relates to the difference between conversions and rebuilding dealt with under Class Q. This is important because if a development does not amount to a conversion it would fail to be development permitted under Class Q (b). The case suggests that an agricultural building may be so skeletal and minimalist that the works needed to alter it to be used as a dwelling would be of such a magnitude that it would be tantamount to a new build or rebuild.
19. Ultimately, the above considerations are matters of planning judgement for the decision maker.
20. The existing barn comprises low-level concrete bases measuring approximately 19m long, along its east and west elevations. Intermediate timber posts extend above the concrete bases and support the main roof timbers and purlins. The roof is clad in metal profile sheets.
21. The side walls have timber purlins fixed to the timber posts and form support to vertical timber cladding. However, the timber cladding only extends to part of the side and north elevations and the south elevation is open. Consequently, in part, the barn comprises a minimal part exposed timber frame.
22. Earth is banked up on either side of the longitudinal concrete bases, to accommodate the dipping nature of the barn, at the northern end it is approximately at natural ground level and at the southern end approximately 1.5m subterranean.
23. The appellant's structural report concludes that there is no reason why the barn could not function as a dwelling without any additional structural elements as permitted under Class Q Permitted Development Guidelines.
24. Nevertheless, I cannot be certain that this assessment is specifically based on the proposal before me. The structural report also identifies that there has

¹ Paragraph: 105 Reference ID: 13-105-20180615

been some movement to the posts to the eastern flank elevation and that there is some evidence of fire damage. Also, notwithstanding its conclusion, the structural report suggests some strengthening works to the barn.

25. In light of the above and given the barn's minimal extent, it cannot be said with certainty that significant elements in respect of timbering would be sufficient or would not need replacing, potentially resulting in substantial works being required. In particular, to support the extent of new walling, fenestration and cladding shown on the submitted plans.
26. Furthermore, the 'Proposed Building Section' shows that significant additional structural works would be required to the existing fabric of the building, to support the new first floor and to infill the flank walls of the barn.
27. The submissions also show that the existing floor would be used to form a base for a new concrete floor. Given the dipping nature of the barn's existing floor this is likely to require substantial alterations.
28. Overall, without a comprehensive appreciation of the entirety of any strengthening works that may be necessary, it is not possible to determine the full extent of the building operations. Without convincing evidence to the contrary, it is reasonable to conclude that the necessary works may be substantial, could be considered rebuilding. Consequently, I cannot be certain that the existing building is already suitable for conversion to residential use and therefore accords with the provisions of Class Q. Indeed, having regard to Part 3, section W (3) of the GPDO, the appeal can be dismissed based on insufficient information.
29. In any event, the proposed alterations to the floor of the barn and the additional structural works are not included in the list of permitted operations set out in the GPDO. Therefore, this would be operational development which goes beyond what would be reasonably necessary for the building to function as a dwellinghouse having regard to Class Q.1 (i) (i) of the GPDO. As such, the proposal does not constitute permitted development pursuant to Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

30. Whilst I have taken account of the appellant's legal advice, for the reasons given above, this does not change my findings on the main issue.

Conclusion

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

M Aqbal

INSPECTOR