



Appeal Decision

Site visit made on 27 September 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2022

Appeal Ref: APP/H1840/W/22/3299596

Tower View Farm, Longdon Hill, Wickhamford, Worcestershire WR11 7RP

- 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), 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 A Hotchkiss against the decision of Wychavon District Council.
 - The application Ref W/22/00382/GPDQ, dated 14 February 2022, was refused by notice dated 11 April 2022.
 - The development proposed is application for prior approval under Class Q of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to convert an agricultural barn into 5 x residential units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development above is taken from the application form. However, it is clear from the submitted evidence that the proposal involves a change of use together with various building operations that would be undertaken to make the building into dwellings. Therefore the prior approval application falls to be determined under Class Q(b) of Schedule 2, Part 3 of the GPDO. This permits 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, together with building operations reasonably necessary to convert the building to a dwellinghouse.
3. A determination first needs to be made as to whether the proposal constitutes permitted development in accordance with the limitations set out in Paragraph Q.1.(a) to (m). The Council contends the development is not permitted development under Paragraph Q.1.(i) on the basis the proposed building operations would exceed what is reasonably necessary such that the proposal would be a re-build not a conversion. The Council has not refused the application regarding any of the prior approval matters that would need to be considered under Paragraph Q.2.(1)(a) to (g) should the development be found to be permitted development.
4. For prior approval applications under Part 3, Paragraph W(10) requires that account must be taken of any representations received and regard must be had to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval.

Main Issue

5. The main issue is whether the proposal would be permitted development for the purposes of the GPDO having regard to whether the building operations would be reasonably necessary to convert the agricultural building into a dwellinghouse, to comply with Paragraph Q.1(i)(i) of the GPDO.

Reasons

6. Some building operations are allowed as part of a Class Q(b) conversion, but Paragraphs Q.1.(i) and (ii) place restrictions on what can be undertaken. Permitted works can consist of the installation or replacement of (aa) windows, doors, roofs, exterior walls, and (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling house; and (ii) partial demolition to the extent reasonably necessary to carry out these building operations.
7. The PPG provides further clarification¹ about the scope of permitted building operations. The permitted right assumes that the existing agricultural building is capable of functioning as a dwelling(s) and hence permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. It goes on to state that it is not the intention of the GPDO 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.
8. Of further assistance is *Hibbitt*² which addresses the extent of building operations allowed for a Class Q(b) application and whether they would amount to conversion or a re-build (fresh build), which are conceptually different. *Hibbitt* was considering an open-sided building, which is not comparable to the appeal building before me. However, *Hibbitt* concluded that the building must be capable of conversion without complete or substantial re-building or, in effect, the creation of a new building. Of note is that Paragraph 105 of the PPG has been revised since *Hibbitt* and no longer includes the requirement that the existing building is structurally strong enough to take the loading which comes from the external works to provide for residential use.
9. The agricultural building has a single span steel portal metal frame with a rounded pitched roof. The roof is covered with corrugated asbestos sheeting. The walls have precast concrete planks at the lower level with profiled metal cladding above. The floor is laid with hardcore with small areas of concrete. The walls and roof were intact, save for a small area of roofing I saw was missing. There is a large full height double doored opening in the north east elevation – the lower parts of this elevation have some stone cladding. There are no other openings in the building. Whilst the building is built on a split-level site, the interior of the building is full height for its entirety. I saw that the metal frame was of thin steel members, unlike the fatter galvanised steel structures one can

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

² *Hibbitt v SSCLG & Rushcliffe BC* [2016] EWHC 2853 (Admin)

see in many agricultural buildings, but did not appear to be in a poor state. The building looked to be in generally satisfactory condition.

10. A Structural Report³ (the Report), based on a visual inspection of the building, was submitted with the application. It found the structural members of the building were in generally good condition, as was the roof with no excessive deflection visible in the purlins or portal frame. The metal cladding was also in generally good condition with a few signs of corrosion and localised damage that would require repair. The structure was found to exhibit little damage or deformation, indicating the existing structural elements are performing satisfactorily in transferring vertical and horizontal applied load through the foundations. A ground bearing slab with an appropriate membrane would be required to provide a suitable ground floor. No investigation of the foundations was made, but from inspection of the building as a whole the Report's author considered they were likely adequate and would not need strengthening. The Report concludes that the building has the structural capacity to accommodate the loads associated with residential conversion and can be converted into residential accommodation.
11. The PPG describes the prior approval process as a 'light touch'. I would not expect a detailed schedule of works but there needs to be sufficient detail to be able to assess the extent of the proposed building operations. The appellant's submitted "Class Q Assessment" document confirms no new structural works would be required and simply describes the proposed building operations. The frame and exterior cladding would be retained, except where openings would be created. The asbestos roof would also be retained and sealed. Small, localised repairs with replacement infill panels would be undertaken to the roof and walls as necessary. Insulation would be fitted internally to achieve the necessary thermal efficiency to meet Building Control standards. Internally, a new insulated floor would be created and this together with the existing frame would support the new first floor mezzanine and dividing walls. New windows and doors would be inserted utilising a pre-fabricated, cassette style, insulated panel/glazing system (similar to a timber frame construction ideology), which would be fixed to the existing frame, concrete panels and the new floor. These panels would also allow retention of the existing cladding system but provide the necessary thermal efficiency to meet building control standards, without any new structural elements being inserted
12. The GPDO permits the installation and replacement of doors and windows, walls and roof, and makes no distinction between structural and non-structural works. Therefore on face value much of the proposed work would be permitted. However, there are a number of discrepancies.
13. The north east elevation, with the large doors, currently has a patchwork of cladding, including panels of stone cladding. These different areas are shown on the existing elevation plans. However, the proposed plans show this elevation uniformly clad. This elevation is not highlighted in the Structural Report as needing to be repaired. This indicates to me that the existing cladding would not be retained, but replaced, especially as the existing large door opening is not retained and new smaller doors and windows would be

³ Prepared by Protheroughs Structural Engineers dated January 2021

inserted in a different alignment. Furthermore, the proposed elevation plans do not show a dividing line between the existing cladding and the concrete panels around the base of the building, particularly on the long south east elevation.. This again indicates to me that the external cladding is not being retained, but replaced across the whole elevation.

14. From what I saw on site and the differences between the proposed elevation plans and the written description of the works, this causes me to question whether the extent of the works are more than described. From these discrepancies I cannot be certain that substantial areas of the cladding materials would be removed thus exposing the metal skeletal structure before new external facing materials were installed, and potentially taking the works beyond that of a conversion.
15. The GPDO does not specify how much of the existing fabric can be replaced. *Hibbitt* found that the extent of the works themselves is not dispositive, but it is for the decision-maker to assess the extent of the works and decide whether they fall within, or go beyond, the statutory limits with regards a conversion or a rebuild. The submitted plans would form an integral part of the proposal if the appeal was allowed and prior approval granted, and would be what was approved. It is therefore only appropriate that they correspond clearly with the described works for certainty and avoidance of doubt.
16. Whilst the existing building may be capable of conversion, without basic annotation of the submitted plans to tally with the proposed external works described in the submitted evidence, I am unable to determine the extent of the proposed works overall to be sure they would fall within the statutory limits to be considered a conversion.
17. In light of this, I am unable to conclude whether the proposed building operations would comply with Paragraph Q.1(i)(i) of the GPDO. I therefore find the proposal does not constitute permitted development.

Other Matters

18. The appellant has provided details of a number of prior approval applications that have been approved by the Council. They include buildings of varying sizes and designs and some have partially open sides. They differ from the appeal building such that the examples are not directly comparable to the appeal scheme before me. Whilst consistency in decision-making is important, all decisions turn on their own particular circumstances based on the facts before each decision-maker at the time. In any event, I must consider the appeal proposal on its own merits based on the facts and evidence before me.

Conclusion

19. For the reasons given, I conclude the proposal is not permitted development under Schedule 2, Part 3, Class Q(b) of the GPDO. The appeal is therefore dismissed.

K. Stephens

INSPECTOR