



Appeal Decision

Site visit made on 13 September 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2022

Appeal Ref: APP/Y3425/W/21/3288414

Kents Farm Barn, Church Lane, Gayton ST18 0HL

- 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) (GPDO).
 - The appeal is made by Harrowby Estates against the decision of Stafford Borough Council.
 - The application Ref 21/34107/PAR, dated 23 March 2021, was refused by notice dated 17 June 2021.
 - The development proposed is to convert the redundant agricultural building to a dwelling house.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of 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) for the conversion of the redundant agricultural building to a dwelling house at Kents Farm Barn, Church Lane, Gayton, ST18 0HL in accordance with the terms of the application, Ref 21/34107/PAR, dated 23 March 2021, and the details submitted with it, including Drawing Nos YBD09228-P001 E (Site Location Plan), YBD09228-P-002 D (Site Plan), YBD09228-P-005 A (Floor Plans as Existing), YBD09228-P006 A (Elevations as Existing), YBD09228-P-010 A (Floor Plans as Proposed), YBD09228-P-011 A (Elevations as Proposed), pursuant to Article 3(1) and Schedule 2, Part 3, Class Q. The approval is subject to conditions set out by Paragraph Q.2(3) of Schedule 2, Part 3, Class Q of the GPDO in that development must be completed within a period of 3 years from the date of this decision as well as the provisions specified in paragraph W. The approval is also subject to the conditions set out in the schedule attached.

Preliminary Matters

2. A previous similar application at the site was refused under 20/33103/PAR. Since this refused application, various works have been undertaken, including to the rear lean-to element of the building. I have made my decision on the basis of the plans and documents which relate to the proposal subject to this appeal.
3. The description of the proposed development in the banner heading above is taken from the planning application form. However, I have removed the superfluous wording to ensure a more concise form of words. This wording is similar to the appeal form which states 'conversion of a redundant agricultural building to a dwelling house.'

Main Issues

4. The main issues are whether the proposal would comply with the requirements under Article 3(1), Schedule 2, Part 3, Class Q of the GPDO, with particular reference to previous works and the extent of the proposed building operations.

Reasons

Whether development has commenced in respect of the previous works

5. The appeal site consists of an agricultural building located on Church Lane. It is opposite the Gayton Village Hall and is surrounded by open agricultural land.
6. The appeal building is a two-storey brick barn with single storey brick and timber structures to its sides, and a single storey brick lean-to extension to its rear. The main two-storey building element has a traditional pitched tiled roof. The single-storey side structures and rear lean-to extension have corrugated sheet metal roof coverings.
7. Paragraph Q.1 (i) of the GPDO permits the installation or replacement of windows, doors, roofs or exterior walls to the extent reasonably necessary for the building to function as a dwellinghouse and partial demolition to the extent reasonably necessary to carry out such works. The Planning Practice Guidance (PPG) provides further guidance in this regard, establishing that 'it is not the intention of the permitted development right 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. The Structural Report (dated October 2020) indicates that the appeal building was subject to maintenance work in March 2021. The report states that the maintenance work included the repair of the building's first floor and rear roof.
9. However, the Council states that the rear lean-to element of the building has also been rebuilt by virtue of the provision of a new timber structure and the installation of corrugated roofing sheets. The Council consider these works constitute development as defined by Section 55 of the Town and Country Planning Act 1990 (as amended) and go beyond the provisions of Class Q of the GPDO.
10. The appellant contends that the work undertaken in March 2021 was maintenance of the existing building, following storm damage and long-term damage, such as timber rot. From the evidence before me, the maintenance work undertaken comprised roof repairs including patching wall plates and fixings, reclaimed roof sheeting where the existing on-site materials were insufficient, timber and fixings for minor internal floor repairs and to replace existing floor joists.
11. From my observations on site, it was apparent that sections of the original brick walls had been retained in the rear lean-to element of the building. Whilst sections of the lean-to roof had been replaced, the materials used matched the original materials. There was also evidence of original timbers within the lean-to structure, with replacement timbers in localised internal areas. Accordingly, based on the available evidence, I am satisfied that the lean-to repairs have

not significantly altered the main structure of the rear building or its external appearance.

12. I also observed that the main two-storey building element had retained its original brickwork and tiled roof materials, which appeared to be in reasonable condition. The single-storey side structures were also intact and in adequate condition. Furthermore, the building's overall form and structure had been maintained and the building's original appearance as an agricultural building had not been changed.
13. Therefore, I consider that the maintenance work undertaken was relatively modest, did not constitute structural alterations of the building or additions to it, and did not significantly affect the external appearance of the building. In the absence of any contrary conclusive or compelling evidence from the Council, I have no reason to dispute the appellant's version of events.
14. Consequently, I am satisfied that the previous works of repair do not constitute 'development' in terms of the accepted definition, with the maintenance works not altering the appearance of the building. Therefore, the works undertaken were not done so under Class Q of the GPDO and are not contrary to paragraphs W(11) and Q.2(1). As such, the proposal would benefit from the provisions under Class Q.

Building Operations

15. The submitted Structural Report indicates that the existing structural form and the main load bearing elements of the building are suitable to be considered for the proposed conversion. The Council have not provided any compelling evidence to the contrary.
16. The proposal would require alterations to the building's outer fabric. This would include the replacement of the corrugated sheet metal roofing with composite roof sheets, repairs to damaged brickwork, replacement of external cladding, and the replacement of a missing wall panel to the rear lean-to.
17. Class Q.1(i)(i)(aa) allows for the installation or replacement of roofs and exterior walls and so, the proposed repair and replacement of external walls and cladding would be within the scope of Class Q and would be necessary as evidenced in the Structural Report. Taking this and the fact that the building is structurally suitable for conversion into account, the replacement of some of the external walls, cladding and roofing materials would be reasonably necessary to make the building weatherproof and suitable for human habitation. Consequently, these external works to the buildings outer fabric would neither represent a fresh new build nor rebuilding of the structure.
18. Given my findings above in respect of the new building work required to facilitate the residential use of the building, as a matter of fact and degree, I find that the circumstances in the Hibbett case are not directly comparable. In any event, I have dealt with the appeal on its own merits.
19. Based on the evidence provided, I am satisfied therefore that the structural integrity of the building is sound and would form an integral part of the new dwelling. The building operations would be reasonably necessary in this instance and would not exceed the limitations set out in paragraph Q.1(i) of the GPDO. As such, this part of the proposal would constitute permitted development as set out under Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

20. The conditions set out in paragraph Q2(1)(a) to (g) relate to certain details of the proposed development, including transport and highways, noise, contamination, flooding, location or siting, design or external appearance, and the provision of adequate natural light in all habitable rooms. The Council raises no concerns in relation to the prior approval matters listed in paragraph Q.2(1)(a) to (g), subject to various suggested conditions in relation to matters such as highway safety and noise that it considers would be required. Such conditions would be reasonably related to the subject matter of the prior approval. In those circumstances, it is reasonable and necessary for me to impose such conditions as referred to by the Council, so that the proposal would not impact on highway safety and result in unacceptable noise.
21. Given the above and based on the information before me and my observations on site, I have no reason to take a different view to the Council in respect of the above matters. Therefore, the proposal would comply with these other matters considered under Class Q.
22. The appeal site is located within 15km of Cannock Chase Special Area of Conservation (SAC). The appeal site therefore falls within the zone of influence for the SAC. New residential development within this zone of influence is likely to have a significant effect on the SAC through increased recreational pressures. The Council's submitted evidence indicates that mitigation for proposed residential developments that would result in a net increase in residential units would be required in the form of a financial contribution.
23. The grant of planning permission under Article 3(1) of the GPDO is subject to the provisions of the GPDO for each class of development and compliance with regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). Effectively, Article 3(1) provides a pre-commencement condition which must be met, where the development would affect a European protected habitat, such as a SAC, before the works can be undertaken as permitted development. This includes a separate application to the Council under regulation 77 of the Habitats Regulations to allow the Council to undertake an appropriate assessment and, depending on the outcome, this would determine whether, in terms of that matter, the scheme could be undertaken as permitted development under the GPDO.
24. Based on the evidence before me, it does not appear that an application to the Council under regulation 77 has been made. However, as the regulation 77 application can be submitted and potentially approved after the grant of prior approval, it is not determinative in respect of the main issues that I have examined and, therefore, I do not need to consider this matter further as part of this appeal.
25. Accordingly, with Article 3(1) and Regulations 75-78 securing a separate process by which such development only proceeds where it has been confirmed via a Regulation 77 approval from the Council that there would be no adverse effect on the integrity of designated sites, it is not necessary to secure the financial mitigation as part of this appeal.
26. The process in this instance nevertheless still requires the developer to submit a Regulation 77 application and receive written notification of the approval from the Council prior to commencement of development. This process also

allows me to be satisfied that the appeal proposal would not adversely affect the integrity of the SAC.

27. A number of other issues have been raised by third parties, including modern farming methods and the use of the building for storage of winter feed and animal shelter. However, as the appeal relates to prior approval, the matters for consideration are restricted to those set out in the relevant paragraphs of the GPDO. Therefore, these other issues raised fall outside the matters I can consider.

Conditions

28. The Council has provided a list of conditions which it recommends should be attached to any permission.
29. Any prior approval and planning permission granted for the development under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO is subject to the condition under Q.2 (3) which specifies that the development shall be completed within a period of 3 years starting with the prior approval date, as well as the provisions of paragraph W. Accordingly, the Council's suggested time condition is not necessary.
30. Given I have listed the submitted plans in my decision and Paragraph W(12) of Schedule 2, Part 3 of the GPDO requires development to be carried out in accordance with the details submitted, the Council's suggested plans condition is unnecessary. I have therefore not imposed that suggested condition.
31. Paragraph W(13) of the GPDO allows prior approval to be granted subject to conditions reasonably related to the subject matter of the prior approval. For the reasons set out above, I have imposed conditions relating to highway safety. I have also imposed a condition to safeguard the living conditions of the occupiers of neighbouring properties from potential noise nuisance during the construction stage. A condition relating to hard and soft landscaping has been imposed to ensure the satisfactory appearance of the building. I have also imposed a condition to ensure the adequate drainage of the site. These conditions are reasonable and necessary and are reasonably related to the subject matter of the prior approval.
32. I have made some revisions to the Council's suggested conditions in the interests of clarity and precision. However, I have omitted the Council's suggested condition removing permitted development rights relating to gates, fences, walls and means of access to a highway given the scale of the proposed development and the limited nature of such permitted development works indicates that such a condition is not necessary. I have also not imposed the other conditions suggested by the Council's Environmental Health Officer as I found these to be unnecessary.

Conclusion

33. For the reasons given, I conclude that the appeal is allowed and prior approval is granted subject to conditions.

Helen Smith

INSPECTOR

*****Schedule of Conditions*****

- 1) The access drive and parking areas shall be provided in accordance with the approved plans before the development is first occupied and shall thereafter be retained as such.
- 2) Prior to occupation, the access drive shall be surfaced in tarmac for a minimum distance of 5m from the carriageway and shall thereafter be retained and maintained as such.
- 3) Any vehicular access gates shall be sited a minimum distance of 5m from the site boundary and shall not open towards the public highway.
- 4) All construction works, including demolition and associated deliveries to the site shall only take place between the hours of 08.00 and 18.00 Monday to Friday, 08.00 and 14.00 Saturdays, and not at any time on Sundays, Bank or Public holidays. Any equipment which must be left running outside the allowed working hours shall be inaudible at the boundary of occupied neighbouring residential dwellings.
- 5) Details of hard and soft landscaping, including means of enclosure, shall be submitted to and approved in writing by the local planning authority prior to occupation. The approved scheme shall then be carried out in accordance with the approved details and thereafter retained and maintained.
- 6) Prior to its installation, details of a scheme for foul drainage and surface water drainage shall be submitted to and approved in writing by the local planning authority. The approved scheme shall then be carried out in accordance with the approved details and thereafter retained for the lifetime of the development.

*****End of Conditions*****