



Appeal Decision

Site visit made on 26 October 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/D3125/W/22/3295121

No. 10, Sturt Farm Courtyard, Sturt Farm, Oxford Road, Burford OX18 4ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Sturt Farm Burford Ltd against the decision of West Oxfordshire District Council.
 - The application Ref 22/00017/PN56, dated 23 December 2021, was refused by notice dated 9 February 2022.
 - The development proposed is conversion of existing barn to dwelling.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for conversion of existing barn to dwelling at No. 10, Sturt Farm Courtyard, Sturt Farm, Oxford Road, Burford OX18 4ET in accordance with the details submitted pursuant to Schedule 2, Part 3, Class Q, Paragraph Q.2(1) of the GPDO through application Ref 22/00017/PN56, dated 23 December 2021. The approval is subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development on application form is lengthy and includes details not specifically relating to the proposed development. Accordingly I have taken the description from the Council's decision notice which is also consistent with the appellant's appeal form.

Main Issues

3. Schedule 2, Part 3, Paragraph W of the GPDO states that the local planning authority may refuse a prior approval application where the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on the above basis that the Council refused to grant the prior approval.
4. The proposal relates to Schedule 2, Part 3, Classes Q(a) and (b) of the GPDO, which enable the change of use and conversion of an agricultural building to a dwellinghouse. That is subject to certain limitations, paragraph Q.1, and conditions, paragraph Q.2.

5. The first main issue is whether the proposed building operations would exceed that which is reasonably necessary for the building to function as a dwellinghouse under Schedule 2, Part 3, Class Q of the GPDO.
6. In addition, under paragraph Q.1.(d)(ii) the development would not be permitted if, together with any previous development under Class Q, the cumulative number of separate dwellinghouses within an established agricultural unit having a use falling within Class C3 (dwellinghouses) would exceed 5. Therefore the second main issue is whether the development would result in the cumulative number of dwellinghouses brought forward under Class Q exceeding the threshold of 5 dwellings.

Reasons

Whether the proposed building operations would exceed that which is reasonably necessary to function as a dwellinghouse

7. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that development is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out building operations, as listed above.
8. The Planning Practice Guidance (the PPG) provides further clarification, including 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, such that 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. Whether or not the proposed works go beyond the scope of conversion is a matter of fact and degree and requires an element of judgement.
9. In determining the appeal I have had regard to the judgement handed down in *Hibbitt v SSCLG* [2016] EWHC 2853 (the Hibbitt judgement). This addresses the extent to which building operations to facilitate residential use may be considered to amount to conversion of the relevant agricultural building. Briefly summarised, it explains that where the nature of works proposed would be so fundamental as to effectively result in a rebuilding of the relevant building based on planning judgement, this is not permissible. It further clarifies, however, that the extent of works proposed is not in itself dispositive but rather a factor in determining whether the works proposed are part of a conversion.
10. The appeal barn is comprised of two adjoining parts. These are described on the existing floor plan (Ref 16-0592-212) as a workshop and adjoining hay barn. The proposal relates to conversion of the workshop only. The proposed building for conversion appears to be in reasonably good condition. This comprises a steel framed building clad in corrugated cement sheeting.
11. From inside the building it is apparent that blockwork forms the bottom section of the wall on all sides except for the section of wall separating the workshop from the hay barn. The blockwork appeared to be of a substantial construction without obvious structural defects. Whilst forming the bottom section of the

wall only, it extended to around ten courses in height. Therefore it is not an insignificant proportion of the walls and would be retained. Unlike the barn in the Hibbitt judgement, the appeal building is completely enclosed on all sides.

12. The proposal involves the replacement of the corrugated sheet wall cladding with timber boarding. The existing cladding is understood to contain asbestos. Therefore this is reasonably necessary to make the building habitable. The concrete floor appeared to be in relatively good condition and is to be retained. Insertion of windows and doors is proposed to be kept to a minimum. The roof is to be retained. Whilst only metal sheeting it appeared in generally good condition. As such, it appears reasonably likely that it could be insulated internally to enable the building to function as a dwellinghouse.
13. The Council references the previous appeal decision (Ref APP/D3125/W/19/3242066) relating to conversion of the barn to residential use. It appears that that scheme involved conversion of the hay barn as well as the workshop. Unlike the workshop, the hay barn appears to be of a much less substantial construction and therefore more extensive works would have been required for its conversion in addition to those relating to the workshop. Also, that proposal involved more alterations to the form of the existing building, including insertion of many more door and window openings. Furthermore, in that instance the roof was to be replaced in its entirety whereas it is now proposed to be retained.
14. Therefore, as a matter of fact and degree, I am satisfied that the works proposed in this appeal amount to conversion, and are not so significant as to amount to rebuilding. Accordingly, I am satisfied in this instance that the proposed works would be reasonably necessary for the building to function as a house, and consequently the limitation in paragraph Q.1(i) of the GPDO would be met.

Whether the development would result in the cumulative number of dwellinghouses brought forward under Class Q exceeding the threshold of 5 dwellings

15. The Council references prior approvals which are said to be extant for 'Barn 4 and Barns 8 and 10'. The Council indicates that Barns 8 and 10 relate to larger units. In addition they reference a full planning permission for conversion of Cotswold Barn (Ref 18/01886/FUL). However it is clear that the Class Q restriction on the number of conversions to dwellinghouses relates to development brought forward under Class Q. Therefore the Council's evidence does not show that the cumulative number of dwellinghouses brought forward under Class Q would exceed the 5 dwelling threshold.
16. It was apparent from my site visit that a number of residential developments have been or are in the process of being brought forward within the wider Sturt Farm site. However the appellant highlights that there are also prior approvals granted under Class O (office to residential) and separate full planning permissions for conversion to residential use.
17. With respect to Class Q, the appellant highlights that prior approval for conversion of barns 4, 8 and 10 to create three dwellings is time expired (Ref 16/03001/PN56). No robust evidence is before me to indicate otherwise. The appellant instead refers to extant Class Q prior approvals for the conversion of barns 8, 10 and 12 to create four small dwellings. Therefore they submit that

the appeal proposal would make a total of 5 dwellings brought forward under Class Q.

18. Accordingly, in the absence of definitive evidence to the contrary, I am satisfied that the appeal proposal would not result in the cumulative number of separate dwellinghouses brought forward under Class Q exceeding 5. Therefore the proposal would not exceed the limitation established by paragraph Q.1.(d)(ii) of the GPDO.

Conditions

19. For the avoidance of doubt, I have imposed the condition specified under Schedule 2, Part 3, paragraph Q.2(3) of the GPDO which requires that proposals are completed within three years of the date of this prior approval decision. Prior approval may be granted unconditionally or subject to reasonably related conditions. I have considered the condition suggested by the Council in light of the Framework and the PPG.
20. It is necessary to impose a condition requiring adherence to the supporting plans and details for certainty, and to ensure compliance with the relevant requirements of Class Q. I have reworded and combined suggested conditions 3, 4 and 7 relating to approval of detailed design and materials. A reduced level of detail is appropriate given the prior approval process which is intended to be light-touch and should not replicate the planning application system.
21. In the interests of precision, clarity and brevity I have undertaken some rationalisation of the conditions suggested by the Council in respect of site investigation and remediation. Noting the former use of the site, the remediation condition is necessary in the interests of safeguarding the living conditions of future occupiers and reasonably relates to the subject matter. The condition requiring approval of a surface water drainage scheme is necessary to ensure suitable drainage and pollution prevention. A condition requiring landscaping details is not necessary for a proposal of this scale under the prior approval process.

Conclusion

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

Rachel Hall

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted must be completed within a period of three years from this decision in accordance with Schedule 2, Part 3, paragraph Q.2(3) of the GPDO.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 16-0592-10-001; 16-0592-10-002; 16-0592-212; 16-0592-10-023E; 16-0592-10-022E; 16-0592-10-020C; 16-0592-10-021C.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces (to include samples of cladding to be used on external walls, details of roof, doors, windows and external gutters and pipework) shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall commence until an assessment of the risks posed by any contamination, shall first have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.
- 5) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out before the development is first occupied.
- 6) The development hereby permitted shall not be occupied until a surface water drainage scheme shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The scheme shall include details of the size, position and construction of the drainage scheme and results of soakage tests carried out at the site to demonstrate the infiltration rate. Three tests should be carried out for each soakage pit as per BRE 365 with the lowest infiltration rate (expressed in m/s) used for design. Once implemented the surface water drainage scheme shall be maintained for the lifetime of the development.

End of Schedule