



Appeal Decision

Site visit made on 20 December 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th January 2023

Appeal Ref: APP/A0665/W/22/3305387

Withy Bank, Old Coach Road, Broxton, Chester CH3 9JL

- 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).
 - The appeal is made by Mr K Siddorn against the decision of Cheshire West and Chester Council.
 - The application Ref 22/02013/PDQ, dated 20 May 2022, was refused by notice dated 17 June 2022.
 - The development proposed is the conversion of agricultural building into dwellinghouse with associated parking and amenity space.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) Schedule 2, Part 3, Class Q(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of agricultural building into dwellinghouse with associated parking and amenity space at Withy Bank, Old Coach Road, Broxton, Chester CH3 9JL in accordance with the terms of the application, Ref 22/02013/PDQ, dated 20 May 2022, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Scheme Drg No: 124700 - 002, Scheme – Materials Drg No: 124700 – 003, and Proposed Site Plan Drg No: 124700 – 005.

Preliminary Matters

2. The description above is taken from the decision notice and appeal form, as no such description was provided on the application form.
3. The appellant submitted a structural report¹ along with this appeal. Although this information was not before the Council when it determined the application, I note that it had the opportunity to comment on the details of the report during this appeal. Accordingly, I consider that the Council would not be prejudiced by me considering the structural report thus I have had regard to it in my determination of this appeal.

¹ Specific Defect Report: Structural Report on Barn at Withy Bank, Old Coach Lane, Broxton, CH3 9JL, Platt White Partnership, 1st August 2022

Main Issues

4. The main issues are (a) whether the proposed development falls within the terms of the permitted development rights 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 GPDO), with specific regard to the extent of physical works proposed; and (b) if so, whether prior approval should be granted in respect of the design and external appearance of the building.

Reasons

Whether the proposal would be permitted development

5. The permitted development right under Article 3(1), Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO allows the change of use of an agricultural building and any land within its curtilage to a dwelling house together with building operations reasonably necessary to enable the conversion, subject to various limitations and conditions as set out in paragraphs Q.1 and Q.2 of that Class.
6. Paragraph 105 of the Planning Practice Guidance (PPG) states that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. The right permits buildings operations which are reasonably necessary to convert the building, which may include the installation or replacement of windows, doors, roofs and exterior walls. However, 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.
7. The PPG also refers to the Hibbitt² judgement, in which it was found that where works would be so significant so as to amount to a rebuild or fresh build, this would go beyond what is considered a conversion and as such beyond the provisions of Class Q. Whether or not the proposed works go beyond the scope of conversion and would constitute a fresh build is a matter of planning judgement with reference to the particular circumstances of the case.
8. The appeal building is a steel portal framed building. Internally there is no floor slab. The external walls predominantly comprise of blockwork, metal cladding and timber boarding. A considerable proportion of the building's south elevation is open to the elements. The roof is finished in profile sheeting.
9. At the time of my site visit the building appeared to be in agricultural use and the roof, walls and structure were in reasonably good condition. Apart from the timber boarding, the wall coverings are proposed to be retained, with the introduction of extensive glazing to the currently open part of the building's south elevation and an element to the west elevation in place of existing translucent sheeting. There is no evidence that the glazing would require or provide additional structural support.
10. A ground floor slab would be required, as would new internal walls, insulation and weatherproofing works. The structural report indicates that the existing steel portal frame and foundations are capable of taking all required wind and

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

construction loads and that the building is suitable for conversion. I note that there was some evidence of vegetation within the building however it was not extensive and there is nothing before me to indicate that it has undermined its structural capability. Any localised repairs would likely be limited.

11. I do however note that the proposed plans indicate that the roof covering would be retained, whereas the structural report suggests that a new roof and insulation would be introduced with new purlins required. Even if the latter were the case, it seems to me that this element of the proposal would be a limited amount of the overall work required for the conversion and, moreover, the structural report goes on to state that the portal frame and foundations are nevertheless capable of bearing the new roof loads. Overall, a very substantial amount of the existing fabric of the building would be retained and the proposed works would not amount to a fresh build.
12. In my judgement, I find that the building is capable of conversion and the collective works proposed would not be so extensive to go beyond what is reasonably necessary to convert the building into a dwellinghouse. They therefore fall comfortably within paragraph Q.1.(i) and, accordingly, the proposal would represent a permissible conversion, compliant with Class Q(a) and Q(b) of the GPDO.

Prior approval matter: Design or external appearance of the building

13. Paragraph Q.2.(1)(f) of the GPDO states that where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required with regard to a number of matters.
14. Although the Council refused to grant approval for the proposal based on the degree of building operations required to convert the building to a dwellinghouse, it nevertheless went on to consider the prior approval matters. The Council state that prior approval would not be given in relation to the design or external appearance of the property.
15. The building is of a typical modern agricultural design which is commonplace within the surrounding rural locality. It does not appear as an intrusive feature. As noted, a very substantial amount of the existing fabric of the building would be retained. The main interventions proposed comprise of the introduction of glazing to the south and west elevations. Whilst extensive and domestic in appearance, the glazing would utilise existing openings and moreover, in most views from public vantage points, the building would retain its simple form and functional appearance. All in all, the resultant dwelling would clearly appear as a conversion of a former agricultural building.
16. The residential curtilage which would result from the proposal, and any domestic paraphernalia which may subsequently be introduced, would be very limited and thus would not significantly intrude on the rural characteristics of the wider locality. Additionally, these domestic features would be read in close association with the adjacent residential property.

17. Accordingly, the proposal would largely retain the building's existing agricultural appearance and it would not cause undue harm to the character of the wider area. Prior approval is therefore approved in respect of this matter.

Conditions

18. Paragraph Q.2(3) stipulates that development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. As such, a condition is not required in this regard.
19. Paragraph W (13) of Schedule 2, Part 3 of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. The Council have suggested a condition which specifies the plans. In the interests of certainty, and to specify the proposed materials, I have imposed a condition in this regard.

Conclusion

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

H Ellison

INSPECTOR