



Appeal Decision

Site visit made on 29 November 2022

by A Veevers BA(Hons) PGDip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2023

Appeal Ref: APP/R0660/W/22/3301144

Woodlands Farm, Stocks Lane, Over Peover WA16 9HD

- 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 and Mrs Peter Stokes against the decision of Cheshire East Council.
 - The application Ref 22/0765M, dated 22 February 2022, was refused by notice dated 20 April 2022.
 - The development proposed is described as 'conversion of existing agricultural building to 1 no. dwellinghouse with new and existing openings providing for adequate natural light to all habitable rooms.'
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Decision

1. The appeal is allowed and prior 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) (GPDO) for the conversion of existing agricultural building to 1 no. dwellinghouse with new and existing openings providing for adequate natural light to all habitable rooms at Woodlands Farm, Stocks Lane, Over Peover WA16 9HD in accordance with the terms of the application, Ref 22/0765M, dated 22 February 2022 and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of the GPDO and subject to the additional conditions in the attached Schedule.

Preliminary Matters

2. Recent alterations have been carried out to the building comprising replacement of corrugated sheet cladding with timber cladding to one wall of the agricultural building and a replacement metal sheet panel roof. The Council considers these were carried out to facilitate the conversion of the building to a dwelling and therefore query whether or not the proposal is 'eligible' to be considered under the prior approval process. Prior approval cannot be granted for development that has already begun, whether or not it is wholly or partially completed¹
3. However, the Council did not refuse the application for this reason. Furthermore, the appellant confirms the works were undertaken as routine

¹ Winters v SSCLG & Havering LBC [2017] EWHC 357 (Admin)

repair and building maintenance rather than part of conversion work. From my site visit, I saw the building was in use for accommodating tractors, no other works to the fabric of the building had taken place and there is no evidence before me to reach a different conclusion. I have proceeded to determine the appeal on that basis.

4. The Council adopted the Cheshire East Local Plan Site Allocations and Development Policies Document in December 2022, which forms part of the development plan. However, the document is not relevant to the consideration of this appeal under Schedule 2, Part 3, Class Q of the GPDO and the main parties have had chance to comment.

Main Issue

5. The main issue is whether the proposed development falls within the terms of the permitted development rights of Class Q(b) of the GPDO, having regard to the limitation in paragraph Q.1(i), with particular regard to whether or not the development would consist of building operations reasonably necessary to convert the building to a dwelling.

Reasons

6. The site comprises a steel portal framed agricultural building, clad with metal sheets to three elevations and timber to one elevation, all above a low blockwork wall and a concrete floor. The roof is comprised of modern box profile metal sheeting panels. To the front of the building is an ornamental pond and vegetated area and to the rear is a yard area accommodating other functional agricultural and storage buildings.
7. Schedule 2, Part 3, Class Q(a) and (b) of the GPDO permits the change of use of an agricultural building to a dwellinghouse together with building operations reasonably necessary to enable the conversion. This is subject to various limitations and conditions in paragraphs Q.1 and Q.2. I note that the Council consider the change of use is acceptable under paragraph Q(a).
8. Paragraph Q.1.(i) states that such 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 such building operations.
9. The PPG² states 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.
10. In terms of what is 'reasonably necessary', the Hibbitt judgment³, referred to by both parties, establishes that the scale of the proposed building works is key. To be permitted under Class Q the building works would, among other

² Paragraph: 105 Reference ID: 13-105-20150305
(Revision date 05 03 2015)

³ Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

things, need to be of a scale which would fall within the scope of a 'conversion' rather than go beyond that so as to amount to a rebuild or fresh build. Whether or not the proposed works go beyond the scope of conversion is a matter of planning judgement with reference to the circumstances of the case.

11. A structural report by Hale Surveys dated September 2021 indicates that the primary structural steel frame of the building shows no significant signs of displacement. The steel stanchions are encased in concrete at the base which is at a sound footing depth and set on stable substrate as evidenced by two trial pit surveys. The reports states that the existing steel frame and footings are considered adequate to support the existing roof along with insulation and vaulted ceiling. The existing roof structure is deemed adequate to accommodate the load increase of the proposed insulation and ceiling, although it would be necessary to install additional purlin supports due to the spacing of existing purlins. The corrugated sheet cladding on one gable elevation would be retained along with the timber cladding to the front elevation. The remaining two elevations would be re-clad in timber. A secondary internal timber or steel stanchions inner wall would allow for the installation of windows and doors within the cladding.
12. A suspended mezzanine floor is proposed to be installed internally and independent of the existing primary structure and external fabric. This would include a new steel frame supporting timber floor joists. The steel frame would be supported above ground level by steel columns positioned within the external wall construction and planted on new concrete pad footings.
13. The nature and extent of the proposed building operations should be assessed as a matter of fact and degree to inform a conclusion as to whether they would amount to development and, if so, be 'reasonably necessary' to facilitate the permitted change of use – or fall outside of the PD right. The Council contends that the amount of works required to facilitate the residential use would cumulatively fail to comply with paragraphs Q(b) and Q.1(i) of the GPDO and therefore the building would not currently be suitable for conversion. However, the Council have provided no evidence in this respect.
14. The proposed conversion would not require extensive demolition or the replacement of the building's primary steel structure. The blockwork walls would remain in situ and the existing footings would not require underpinning. Externally, although I recognise that the roof and one elevation has been replaced with new materials, and the proposal would include the replacement of two further elevational treatments, from the evidence before me, the existing building is structurally strong enough to take the loading which comes with the external works to provide the residential use. The PPG clarifies that for the building to function as a dwelling, it may be appropriate to undertake works which would affect the external appearance of the building and would otherwise require planning permission.
15. Internally, the appellant's structural survey confirms that the only additional foundation and structural supports to be installed would be those integral to the internal works to support the mezzanine floor rather than the existing building. An additional timber studwork inner wall or aluminium mullions and transoms would be installed by taking support from the floor structure at both levels and the existing steel stanchions to carry the load of insulation to the external walls and provide internal support for modern window and door

openings. However, these would not comprise structural elements, with the primary structure of the building remaining.

16. The PPG states that for the building to function as a dwelling under Class Q it may be appropriate to undertake internal structural works, specifically referring to allowing for a floor or internal walls. The installation of windows and doors is expressly permitted by paragraph Q.1.(i). While the enhancement to the purlins is required due to the increase in roof loading, in line with the findings of the appellant's survey, I consider that this would relate to works reasonably necessary for the proposed conversion.
17. Clearly the case involves matters of judgement. In the absence of any convincing evidence to the contrary and in light of the information provided to me and my site visit, the proposed works are not required to provide a structural support for the conversion as a whole, I find that they would be reasonably necessary to convert the building to a dwelling.
18. The Council has outlined that the proposal complies with the other restrictions and limitations specified in Paragraph Q.1. Based on my observations, I have no reason to disagree.
19. I therefore conclude that the proposal would be permitted development under Schedule 2, Part 3, Class Q(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Other Matters

20. Limited details of a number of prior approval applications relating to Class Q of the GPDO granted by the Council and appeal decisions have been drawn to my attention by the appellant. The decisions relate to the interpretation of Class Q and the PPG. I have taken the decisions into account. Nevertheless, there are differences in terms of the individual circumstances of the agricultural buildings, the matters in dispute and the conversion works required. I, therefore, have reached my own conclusions on the appeal proposal on the basis of the evidence before me.

Conditions

21. Paragraph W(13) of Part 3 of Schedule 2 of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval.
22. I have had regard to the conditions suggested by the Council and had regard to Paragraph 56 of the Framework and the PPG. I have re-ordered and carried out some minor editing in the interests of precision and clarity. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with paragraph Q.2 (3) of the GPDO. Additionally, I have imposed a condition specifying the relevant drawings as this provides certainty.
23. Further conditions are necessary to address the risks associated with unexpected contamination given the previous use of the site, and to ensure that any soil imported to the site is not contaminated. Conditions to ensure that the construction of the development avoids disturbance to birds, and that a suitable replacement pond is put in place, are necessary in the interests of biodiversity.

24. The Council's suggested condition relating to materials is unnecessary as these details are indicated on the approved plans. A condition requiring details of landscaping falls outside the limited scope of issues under consideration within Class Q.

Conclusion

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

A Veervers

INSPECTOR

Schedule of Conditions to Prior Approval Ref: 22/0765M

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 1357 LO1 Rev B; Proposed Site plan 1357 203 Rev B; Proposed Elevations 1357 205 Rev A; Proposed Floor plans 1357 204; Proposed Construction Details 1357 206
2. Prior to first occupation, the mitigation measures outlined in Section 4.3 of the Ecological Assessment (Kingdom Ecology, 27/08/2020) shall be implemented in full. The measures implemented shall be retained thereafter.
3. Any soil or soil forming materials brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use. A methodology for testing these soils shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto site. The methodology shall include information on the source of the materials, sampling frequency, testing schedules and criteria against which the analytical results will be assessed (as determined by risk assessment). Testing shall then be carried out in accordance with the approved methodology. Relevant evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto the site.
4. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
5. No development hereby permitted shall take place during the bird breeding season of 1 March to 31 August in any year, unless a survey of the site for nesting birds has been undertaken immediately beforehand. A four-metre exclusion zone shall be maintained around any nest identified in the survey, within which no development shall take place other than outside of the bird breeding season.

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