



Appeal Decision

Site visit made on 10 January 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Appeal Ref: APP/R0660/W/22/3307005

Manor Farm, Hunsterson Road, Hunsterson CW5 7RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr M Heler against the decision of Cheshire East Council.
 - The application Ref 22/2233N, dated 31 May 2022, was refused by notice dated 4 August 2022.
 - The development proposed is Prior Approval to convert two existing agricultural barns to two dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters and Main Issues

2. The description of development in the banner heading above is taken from the appeal form and decision notice as it most accurately describes the proposed development.
3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) enables certain types of development to take place without the need for specific planning permission, provided certain criteria are met. Schedule 2, Part 3, Class Q of the GPDO permits development consisting of (a) 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), and (b) building operations reasonably necessary to convert the building referred to in paragraph (a) above.
4. The Council considers that the proposal would not be permitted development as the proposed conversion would amount to 2 dwellings which would exceed the total floor area permitted of 465 square metres, and therefore would not accord with Q.1 (b) and (d). The Council also considers that the proposed operational works allowed under Class Q(b) would be above and beyond what could be considered to be reasonably necessary to enable the building to function as a dwelling.
5. Given the above, I consider the main issues in this case are whether the proposal is permitted development under Schedule 2, Part 3, Class Q of the GPDO, having particular regard to the following main issues:
 - Whether or not the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit exceeds 465 square metres; and

- Whether or not the appeal proposal would consist of building operations reasonably necessary to function as dwellinghouses (Q.1(i)).
6. There is no dispute that the other criteria of Class Q are satisfied. Consequently, there is no need to give them further consideration in this decision.

Reasons

Floorspace

7. The appeal relates to two buildings within the site. The appellant states that the floor space for Barn A is 207.5 square metres and Barn B is 255.9 square metres and the total floor space is therefore below the 465 square metre threshold specified in Q.1 (b) and (d) of the GPDO. The Council considered that no account had been made of the mezzanine level in Barn B. However, the submitted plans identify that the first-floor mezzanine is only a small central section of the building providing a landing and study and the appellant's calculations are correct. The proposal would therefore not exceed the 465 square metres permitted by Class Q.
8. Accordingly, this proposal would meet the criteria set out in relation to Q.1(b) and (d) with regards to floor space and would be permitted development.

Building operations

9. The GPDO states at Paragraph Q.1(i) that development under Class Q(b) 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 dwelling house. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
10. Paragraph 105 of the Planning Practice Guidance (PPG) advises that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, the PPG is clear that it is not the intention of the permitted development rights to allow rebuilding work that would go beyond what is reasonably necessary for the conversion of the building to a residential use. As such, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to benefit from the permitted development rights.
11. Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement based on the fact and degree of an individual case. My attention though has been drawn to Hibbitt¹, which considered whether the works required to bring about the change of use amounted to a re-build or 'fresh' build as opposed to a conversion. Although this pre-dates the updates to the PPG, the case reinforces that it is a matter of planning judgement as to the level of works involved that would still constitute a conversion. However, it was established that the building should be capable of conversion without new structural elements, the existing building should be sufficiently robust to bear the loading from external works

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

and should not involve operations that would amount either to complete or substantial re-building of the pre-existing structure.

12. Barn A is an eight-bay steel framed structure with half height blockwork walling on the rear and two sides with profiled sheeting above, and is fully open along one long side. The roof is clad in profiled sheeting and the floor is a concrete slab. On site I noted that the blockwork walling to the northern gable was fractured and leaning outwards and supported by buttressing. Some vegetation was running through the building.
13. Barn B is taller than Barn A and is a timber framed structure. It has predominantly open sides to each gable end, and low blockwork walls to each long side with open slatted timber boarding above. The roof is covered in profiled sheet cladding. A central aisle space has a concrete floor with compacted earth flooring to either side.
14. I have had regard to the submitted Structural Report which advises that the structural condition of each building is good with no critically debilitating defects. It notes that from a structural viewpoint it is feasible to convert the buildings to domestic use with new internal non-structural dividing walls. It concludes that no significant work is required to strengthen the buildings and alterations can be made without jeopardising their structural stability.
15. However, the structural report is based on a visual inspection, without any excavations or assessment of the foundations. It also acknowledges that timber or other parts of the buildings which are covered, unexposed or inaccessible have not been inspected other than as required for judgment of the general condition and assessment of strength where needed. Notably, Barn B is a timber framed building, and the report advises that it 'seems to be in good condition'. However, there is no specialist survey or method statement to detail the full extent of the work required. Additionally, in relation to Barn A, there is no detailed indication of what elements would need to be repaired, strengthened or replaced as part of the conversion.
16. In any case, it is apparent to me from the submitted plans that the alterations proposed for both buildings are likely to involve a significant overhaul of the existing building fabric. This includes significant areas of new walls to those bays that are currently predominantly open and where new elevations would be created, along with foundations. The earth floor in Barn B also would also require a substitutionally new floor slab. The submitted plans for both buildings and evidence are also somewhat vague in terms of identifying the level of blockwork and sheeting that may be retained. However, based on the information before me and my site visit, it appears that the external fabric of the buildings would largely be replaced. Existing elements of the buildings that would comprise part of the proposed dwellings are therefore deemed to be modest and predominantly skeletal.
17. I acknowledge that individually, none of the identified proposed works would appear to fall outside of the operations given in paragraph Q.1(i). It does not, however, automatically follow that all such operations should be carried out on each development or that cumulatively they could not go beyond what would be considered 'reasonably necessary' for the conversion of the building. In this regard, I find that the proposed works would be so extensive that they would go beyond what could be described as building operations reasonably necessary to convert the existing agricultural building. Furthermore, given

that the structural survey was based on a visual inspection, I cannot be certain that further works would not be necessary and therefore cannot clearly establish what would remain of the structures.

18. My attention has been drawn to two appeal decisions where the proposed development required the insertion of internal timber frames and new openings which would not affect the structural integrity of the buildings. Both Inspectors concluded that whilst the conversions involved fairly extensive works, they were operations permitted under paragraph Q.1(i) and amounted to a conversion rather than a rebuild. However, I have not been provided with the full details of these cases, and consequently, I am unsure what existed at the time of these applications and what works were needed to convert the buildings. As such, I cannot draw direct comparisons that would weigh in favour of the proposal before me. However, it would appear that in both cases more of the existing buildings would be retained than in this instance. As such, I have considered this proposal based on the specific circumstances of the case before me.
19. With reference to the Hibbett judgement, in my view the extent of the proposed works would in all practical terms amount to building works starting afresh, with only a modest amount of help from the structure and fabric of the existing buildings. On this basis, I consider that this proposal would be akin to a complete rebuild and not the residential conversion of agricultural buildings on which the permitted development right depends.
20. Based on the evidence before me, I conclude that the extent of works proposed in relation to both buildings would consist of building operations not reasonably necessary for the buildings to function as dwellinghouses and would fall outside the scope of permitted development rights under Class Q(b) of the GPDO.

Other Matters

21. The appellant has expressed concerns regarding a lack of communication with the Council during the application process. However, this is a matter for the Council and has no bearing on my consideration of the planning merits of the appeal proposal.
22. I have had regard to other concerns raised by interested parties, including the site being affected by a covenant, drainage and ecology. However, as I am dismissing the appeal on other grounds it has not been necessary to consider these matters further.

Conclusion

23. Although I have found that the proposal would meet the criteria set out in relation to Q.1(b) and (d) in respect of the floor space threshold for the change of use, it is deemed to go beyond the scope of permitted development rights established under Class Q(b) of the GPDO.
24. For the reasons set out above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR