



Appeal Decision

Site visit made on 17 January 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 February 2023

Appeal Ref: APP/Y1138/W/22/3299860

The Barn - Curved roof barn in the corner of a field located to the south west of Venn Cross, Waterrow, and north west of Helecombe Farm TA4 2BE.

- 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 (GPDO).
 - The appeal is made by Mr & Mrs T Seymour against the decision of Mid Devon District Council.
 - The application Ref 21/01961/PNCOU, dated 1 October 2021, was refused by notice dated 30 November 2021.
 - The development granted approval is Prior Notification for the change of use of an agricultural building to a dwelling under Class Q.
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Decision

1. The appeal is allowed and prior approval is granted for the change of use of an agricultural building to a dwelling under Class Q. at The Barn - Curved roof barn in the corner of a field located to the south west of Venn Cross, Waterrow, and north west of Helecombe Farm TA4 2BE, in accordance with the terms of the application, Ref 21/01961/PNCOU, dated 1 October 2021, 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.

Background and Main Issue

2. Schedule 2, Part 3, Class Q of the GPDO permits (a) the change of use of an agricultural building to residential use; or (b) the change of use together with building operations reasonably necessary to convert the building. In this case, both change of use and building operations to convert the building in question are proposed. The main parties disagree as to whether the scope of the building operations proposed would constitute a conversion of the building, and therefore, whether it would fall within the scope of the development permitted by Class Q(b).
3. The Council does not dispute that the proposal is acceptable with respect to the other matters required to be satisfied under paragraph Q.1. However, the Council has not assessed those matters requiring a determination as to whether prior approval will be required listed in paragraph Q.2(1).
4. Therefore, the main issue is whether the proposed building operations fall within the scope of a conversion, and if so, whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

5. The appeal building is a steel frame open fronted structure featuring a curved trussed roof, externally clad walls on three sides with corrugated metal cladding, and a corrugated metal clad roof. The proposal would see the retention of the existing building frame and a large part of the existing cladding in front of new internal insulated walls.
6. 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.
7. The Council raises concerns that the cumulative nature of the proposed works goes beyond a conversion and would amount to a rebuilding of the building. A Schedule of Works and Structural Appraisal (SWSA) accompanied the planning application, with a further Structural Inspection (dated 19 May 2022) (SI) being submitted with the appeal documentation. The SWSA provides brief details of the construction of the existing building, and details of the design philosophy of the proposed works, including retention of the roof structure in its entirety, and retention of external walls, with new infill walls primarily to replace the open sided front of the building. The SWSA also expresses the retention of external wall and roof material as a percentage of external materials, stating that 74.3% will be retained.
8. The SI, which incorporates trial hole and foundation investigations, has considered the proposed works as detailed within the SWSA. Load calculations are provided, based on the existing structure and the proposed works indicating that the building demonstrates overall structural stability and is capable of conversion taking into account the external works proposed within the SWSA.
9. The Council raise concerns that the SWSA was not prepared by a suitably qualified engineer. However, even if this was the case, the SI appears to have been produced by a suitably qualified authority, and confirms the observations within the SWSA regarding the condition of the steelwork and cladding are reasonable. Furthermore, in the absence of an equivalent report on the part of the Council, I have given the SI and SWSA significant weight.
10. Although I note the Council's concerns that the SWSA does not go far enough to meet the standards of a structural survey, there is no legislative requirement for such a detailed report. During my visit the building appeared to be in reasonable condition with no evident structural issues. In the absence of any substantiated evidence to the contrary, and given the contents of the SI, I find no good reason to conclude that the SWSA and SI in combination are unreliable in any significant respect.
11. The Council has referenced the case of *Hibbitt v Secretary of State for Communities and Local Government* [2016] EWHC 2853 (Hibbitt) in support of

its concern regarding the extent of works required to create the proposed dwelling in the form of replacement cladding, new cladding and potential load bearing elements for windows.

12. The Hibbitt judgement found that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. I note in the Hibbitt case, the building was largely open on three sides, and the works involved the installation of structural infill panels to construct four external walls. In this instance, three sides of the structure are intact, with the SI stating the building is structurally capable of accepting the conversion while retaining the three existing external walls and roof structure.
13. Furthermore, although internal walls will consist of a new fully insulated timber frame, and the majority of the glazing will need to be supported within the currently open front, the existing structure would be retained, without the need for strengthening.
14. The Council has also drawn my attention to appeal decision (APP/Y11138/W/21/3278858). In this case it appears that the Inspector was concerned that the Structural Survey Report was not confined to the appeal building and did not clearly specify all the proposed building operations, nor what degree of original fabric would be retained. Furthermore, the Inspector noted only general references were made to new materials and an omission of an assessment of the condition or suitability of the retention of various elements of the building. This differs from the proposal before me, which has shown that the building is structurally sound and provided sufficient detail regarding the breadth of works required within the conversion. In any case, I have determined the appeal on its own individual merits.
15. 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. Although the Council had not assessed these elements within the application process, I note that the Council raised no objections in relation to the matters set out in Class Q.2 in relation to the other impacts from the development within their appeal statement.
16. I am aware of third-party representations raised, and I am also mindful of the planning matters that may be considered in the context of this type of application/appeal. Although the building is in a prominent location near the top of a hill, it is sited to the corner of the field, close to a suitable existing highway access and I do not find the location of the building to make it otherwise impractical or undesirable to change of use in the context of guidance provided within the PPG¹.
17. Furthermore, based on my observations on site, and noting the third-party concerns and consultation responses received during the application process, including that relating to noise and hazardous materials from the Council's Public Health Officer, I have no evidence before me to conclude that prior approval for the matters within Q2(1) should not be forthcoming.

¹ Paragraph: 109 Reference ID: 13-109-20150305

18. Accordingly, the evidence indicates that the works required for the conversion would utilise the existing structure and significant amount of existing external wall material. Having regard to the above, I find that the building operations would be reasonably necessary in this instance and would not constitute a rebuild. Therefore, the proposed development would comply with paragraph Q.1(i) of the GPDO in terms of the extent or scale of building operations being reasonably necessary to convert the building with respect to Class Q(b), and would constitute permitted development as set out under Schedule 2, Part 3, Class Q of the GPDO.

Conditions

19. 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. Further standard conditions are set out in paragraph W that requires development to be undertaken in accordance with the details provided in the application. Aside from the above, the Council have not suggested any conditions, although have offered informative text and I also do not see the need for any further conditions.

Conclusion

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

S Harrington

INSPECTOR