



Appeal Decision

Site visit made on 20 January 2023

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2023

Appeal Ref: APP/J1860/W/22/3302433

Land adjoining Hurst Farm, Castlemorton, Malvern WR13 6LS

- 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 (as amended).
 - The appeal is made by Mr A Bunn against the decision of Malvern Hills District Council.
 - The application Ref 21/02070/GPDQ, dated 6 November 2021, was refused by notice dated 5 January 2022.
 - The development proposed is 'Proposed change of use of agricultural building to single dwellinghouse'.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of agricultural building to single dwellinghouse at land adjoining Hurst Farm, Castlemorton, Malvern WR13 6LS in accordance with the terms of the application, Ref 21/02070/GPDQ, dated 10 November 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading above is taken from the original application form, albeit has been shortened to only include information necessary.
3. The appeal proposal relates to a prior approval notification made under Article 3(1), Schedule 2, Class Q, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDQ). Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issue

4. The main issue is whether the proposal would be permitted development, with particular regard to whether the requirements of Schedule 2, Part 3, Class Q(b) of the Order would be met.
5. 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

6. The appeal building is a steel framed four bay Dutch barn. The barn's elevations are predominantly clad in corrugated metal sheets from ground to eaves level. However, the south elevation of the barn is open to eaves level, while there is also an opening to one of the bays on its north-eastern elevation. The barn's roof is also clad in corrugated metal sheets, while it has a loose hardcore floor.
7. The GDPO 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.
8. 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 right to allow rebuilding work that would go beyond what is reasonably necessary for the conversion of the building to a residential use. Accordingly, 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.
9. Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement based on fact and degree of an individual case. Both main parties have though drawn my attention to the Hibbitt Judgement¹. Hibbitt related to the conversion of an agricultural building that was open to all four sides. The Judgement 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 the nature of the Hibbit case is not directly comparable to that before me, the principles established within the Judgement are relevant.
10. Hibbitt reinforces that it is a matter of planning judgement as to whether the level of works involved would still constitute a conversion. However, the case established that the building should be capable of conversion without new structural elements, and the existing building should be sufficiently robust to bear the loading from external works.
11. A structural appraisal and a construction method statement detail the proposed operations. A further letter from the appellant's structural engineer (dated 4 July 2022) provides additional clarification to the structural appraisal. Together, these documents indicate that the barn's existing steel framework can support the required additional loads for the proposed conversion and therefore would be retained. Furthermore, the appeal scheme would not require new foundations or additional structural work to take place. No robust evidence has been provided by the Council that challenges the appellant's structural findings.
12. The proposed dwelling's external envelope would predominantly comprise of retained elements of the existing building. Although sizeable areas of glazing are proposed to be introduced, particularly to the north east and south east

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

elevations, these are capable of being supported by the existing steelwork without further reinforcement and would fall within the scope of Q1(i) of the GPDO. Likewise, further alterations including the connection of services, are more limited in nature and also remain in accordance with those permitted under Q1(i) of the GPDO.

13. Concerns have also been expressed by the Council regarding the extent of internal works that would be required. Section 55(2) of the Town and Country Planning Act 1990 (as amended) is clear that internal works are not generally development. This is reinforced by the Planning Practice Guidance (PPG), which states "Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q".
14. A new concrete floor with damp proof membrane is proposed, however, from the evidence before me it appears that the existing floor is not a structural component. A first floor and other internal partition walls would also be provided, as well as insulation to the roof and walls. Cumulatively, the extent of all the building operations proposed are considerable, however, I consider they would be reasonably necessary given that the building is suitable for conversion.
15. The appeal building seemingly has some similarities to the agricultural buildings in the appeal decisions the Council has provided. However, I have only limited details of those other cases. In the absence of specific details as to the level of works involved (e.g. relevant plans, structural reports, method statements etc.), I have insufficient understanding of the schemes to draw parallels with the current proposal. Notwithstanding the relevancy of these other cases, I have determined the appeal before me based on its own merits.
16. Overall, I am satisfied, based on the evidence before me, that the structural integrity of the building is sound and that it would form an integral part of the proposed dwelling. Additionally, I find that the proposed building operations would be reasonably necessary and would not exceed the limitations set out in paragraph Q.1(i) of the GPDO.

Conditions

17. Prior approval may be granted unconditionally or subject to reasonably related conditions. In that context 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.
18. I have also attached the four conditions suggested by the Council relating to vehicular access, the provision of cycle parking and an electric vehicle charging point. I consider the suggested conditions to be reasonable and necessary in the interest of highway safety and sustainability.
19. I note the comments of the County Council in respect of the need to maintain the nearby public right of way free of obstructions and vehicle movements. However, as this is controlled via separate legislation, I do not consider a condition to be necessary.

20. As paragraph Q.2(3) of the GDPO stipulates that the development shall be complete within a period of 3 years, a condition is not required in this regard.

Conclusion

21. For the reasons above the proposal is permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is therefore allowed and prior approval is granted.

Lewis Condé

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 'Location and Block Plans', Drawing No. 4345BP-02 Dated August 2021; 'Proposed Conversion of Agricultural Building to Single Dwelling', Drawing No. 4345B-02 Dated August 2021; 'Construction Method (including comparison with traditional barn)', Drawing No 4345D-01 Dated September 2021.
- 2) The Development hereby approved shall not be occupied until the first 5 metres of the access into the development, measured from the edge of the carriageway, has been surfaced in a bound material.
- 3) The Development hereby approved shall not be occupied until the access, turning area and parking facilities shown on drawing 4345BP-02 has been provided. These areas shall thereafter be retained and kept available for their respective approved uses at all times.
- 4) The Development hereby permitted shall not be occupied until sheltered and secure cycle parking to comply with the Council's adopted highway design guide has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.
- 5) The Development hereby permitted shall not be occupied until the proposed dwelling has been fitted with an electric vehicle charging point. The charging point shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the Worcestershire County Council Streetscape Design Guide. The electric vehicle charging point shall be retained for the lifetime of the development unless it needs to be replaced in which case the replacement charging point shall be of the or higher specification in terms of charging performance.

End of Conditions