



Appeal Decision

Site visit made on 30 January 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/D1265/W/22/3301715

Barn East of Castle Lane, Okeford Fitzpaine, Blandford Forum DT11 0RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 S Goddard against the decision of Dorset Council.
 - The application Ref P/PAAC/2022/01587, dated 8 March 2022, was refused by notice dated 20 May 2022.
 - The development proposed is described as the 'Change of use and conversion of agricultural building into 1 No. dwelling (Class C3).'
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr S Goddard against Dorset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The above description of development is taken from part E of the appeal form and the Council's Decision Notice because the application form does not include a description.
4. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), permits development consisting of 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) of the Schedule of the Use Classes Order 1987 (as amended), and the building operations reasonably necessary to convert the building subject to certain limitations and conditions.

Main Issues

5. The main issues are:
 - whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to the building operations reasonably necessary to convert the building to residential use; and
 - if so, whether prior approval would be required in accordance with the conditions set out in Paragraph Q.2 (1) of the GPDO.

Reasons

6. The appeal site comprises an agricultural building which is accessed by a narrow track on the eastern side of Castle Lane and sited adjacent to a recreation ground. The barn which it is proposed to be converted into a dwellinghouse is a typical agricultural storage building, with a steel frame which supports a corrugated roof and has an earth floor. As part of my site visit, I was able to observe that each elevation is a combination of concrete blockwork and "hit and miss" timber cladding, with some fabric covering. There is a large opening on the south east side elevation.
7. Schedule 2, Part 3, Class Q of the GPDO permits the change of use of an agricultural building and any land within its curtilage to a residential dwelling, together with building operations reasonably necessary to convert it. Paragraph Q.1(i) of the GPDO lists the building works permitted to facilitate the change of use of an agricultural building to a dwellinghouse. These are the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services, as well as partial demolition to the extent reasonably necessary to carry out these building operations.
8. The Planning Practice Guidance (the PPG¹) provides further information in that regard, by stating that the right assumes that the agricultural building is capable of functioning as a dwelling. The PPG adds that it is only where the existing building is already suitable for conversion to residential use that it would be considered to have the permitted development right.
9. In the case of *Hibbitt*², it was held 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.
10. Prior Approval has been refused twice³ on this site, with two subsequent appeals dismissed. In each case, the Council and the Inspector concluded that the extent of the works proposed would extend beyond the building operations reasonably necessary to convert the building to residential use under Class Q. However, the appellant sets out that, compared to the previous schemes, the appeal proposal would involve less work with all of the existing wall and roof fabric of the building proposed to be retained.
11. Nevertheless, my site visit showed that, as stated above, each elevation is a mixture of concrete brickwork and 'hit and miss' timber cladding. As such, the structure is partly open on each side and views through each side is possible from within the building. With the gaps in the existing walls meaning the building is effectively open to the elements on all sides to some extent, it seems to me that the existing building cannot therefore reasonably be described as being capable of functioning as a dwelling. To properly enclose and weatherproof the structure, walling would be required which, whilst not replacing the cladding, would form part of the external fabric of the building. I do not consider that these works could reasonably be described as limited to internal insulation work.

¹ Reference ID: 13-105-20180615

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

³ Application & appeal references 2/2018/0967/AGDWPA - APP/N1215/W/19/3222752, (2018) and 2/2017/0017/AGDWPA - APP/N1215/W/17/3175628 (2017)

12. These works, on all four elevations, would appear as substantial building elements in their own right. I further note that the plans show that timber cladding would be extended over the existing masonry walls on each side, in order, it is stated, to improve the appearance of the building. In addition, compared to the previously refused and dismissed scheme, more separate window openings are proposed to provide adequate natural light to rooms spread over two floors. I acknowledge that agricultural buildings are, by their nature, basic and utilitarian structures and the advice contained within the PPG allows for building operations altering the external appearance. However, in order to benefit from the PD rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must only involve building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b) and paragraph Q.1(i).
13. The individual elements of the works proposed each fall within those specified in Paragraph Q.1(i). Nonetheless, taken as a whole, cumulatively the building operations which would be required to provide a building suitable for residential use would be extensive and significant. As such, based on the evidence before me and my own observations of the existing building, I consider that the proposed works cumulatively would be so extensive that they would be more akin to a rebuild than a conversion of the existing building.
14. There is debate between the parties as to whether work has been carried out to the unit since the previous scheme, which would fail to satisfy the requirements of Class Q1(g)(i). Even if I were to agree with the appellant that no work has been carried out, for the aforementioned reasons, the evidence before me does not lead me to the conclusion that the building could function as a dwelling as the works involved to facilitate the conversion would go beyond what would constitute 'reasonably necessary'.
15. The appellant references three other cases⁴, two allowed at appeal and one by the Council. With regards to appeal case at Hornblotton Farm, the walls of the agricultural building is made up of Yorkshire boarding and/or profiled steel sheets, which does not necessarily have the same open nature as hit and miss timber cladding. Moreover, in this case, I note that the Council had previously given prior approval for the change of use of an enclosed section of the same building to a dwelling.
16. With regards to the case at Barn off Stud Lane, Abberley, again, this building appears to be a substantial structure with an existing first floor and corrugated metal cladding not hit and miss timber cladding.
17. Finally, with regards to the scheme approved by the Council at Jadewood Farm, again the walls are partly constructed of what is described as Yorkshire boarding, and not specifically hit and miss cladding.
18. As such, I do not consider these three examples are directly comparable. As established by the Hibbitt case, it is a matter of judgment, for the decision maker, having regard in each case, to both the type and extent of the works proposed and whether or not they fall within the statutory limits. I have considered the proposal on its own merits, having regard to the presented evidence and what I saw on my site visit.

⁴ Appeal references APP/Q3305/W/20/3247213 & APP/J1860/W/21/3275424 and application reference P/PAAC/2022/02602.

19. The proposal would not constitute permitted development in respect of Class Q of the Order with particular regard to building operations reasonable necessary to convert the building to residential use. As a result, there is no need to consider whether or not prior approval in respect of the accompanying conditions set out in paragraph Q.2 would be required.

Conclusion

20. For the above reasons, I conclude that the proposal is not permitted development within Schedule 2, Part 3, Class Q of the Order. The appeal is therefore dismissed.

B Phillips

INSPECTOR