



Appeal Decisions

Site visit made on 21 March 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2023

Appeal A Ref: APP/M0933/W/22/3310316

Burton House, Skelsmergh, Kendal, Cumbria, LA8 9AP

- 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(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Robert Stephenson Charities c/o Carter Jonas Ltd against the decision of South Lakeland District Council.
- The application Ref CU/2022/0006, dated 16 June 2022, was refused by notice dated 11 August 2022.
- The development proposed is 'Conversion of steel portal framed barn to 2 bedroom residential dwelling.'

Appeal B Ref: APP/M0933/W/22/3310317

Burton House, Skelsmergh, Kendal, Cumbria LA8 9AP

- 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(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Robert Stephenson Charities c/o Carter Jonas Ltd against the decision of South Lakeland District Council.
- The application Ref CU/2022/0007, dated 16 June 2022, was refused by notice dated 11 August 2022.
- The development proposed is 'Conversion of stone barn (agricultural building) to 1 bedroom residential unit.'

Decision

1. Appeal A is dismissed.
2. Appeal B is allowed and prior approval is granted under Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO) for the conversion of stone barn (agricultural building) to 1 bedroom residential unit at Burton House, Skelsmergh, Kendal LA8 9AP in accordance with the terms of application, Ref CU/2022/0007, dated 16 June 2022, and the plans submitted with it, subject to the conditions set out in a Schedule attached to this Decision.

Procedural Matters

3. As set out above there are two appeals on the site. Appeal A relates to the residential conversion of a steel portal framed barn. Appeal B relates to the conversion of a stone barn. The buildings lie back-to-back, but are of separate construction. Whilst addressed in the same decision letter, I have considered each proposal on its individual merits.
4. Schedule 2, Part 3, Class Q(b) of 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), together with building operations reasonably necessary to convert the building to the Class C3 use.

5. Schedule 2, Part 3, Section W of the GPDO sets out the prior approval process. It states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified as being applicable to the development in question.
6. It was on this basis that the Council refused to grant prior approval for the schemes under Schedule 2, Part 3, Class Q1(m) of the GDPO which excludes listed buildings.

Main Issues

7. The main issues are:

- whether or not the development would be permitted development for the purposes of the Order, having regard to the limitations listed in paragraph Q.1 of Class Q
- if the development falls within the scope of Class Q(b), whether or not prior approval would be required in relation to the Conditions set out in Paragraph Q.2. of Class Q.

Reasons

Appeal A

8. Class Q(b) provides for the change of use of a building and any land within its curtilage together with building operations reasonably necessary to convert the building. 'Curtilage' for the purposes of Class Q is defined in paragraph X 'Interpretation of Part 3'. This limits 'curtilage' to (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or, (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.
9. Plan BHCA212/PA/001/A identifies the relevant building, the area to be used as a garden and a parking area. The sum of the outside curtilage areas lying beyond the building would exceed the footprint of the existing building. It could not therefore benefit from a deemed permission under Class Q of the GDPO. Having regard to this finding, it is not necessary for me to consider Appeal A any further.

Appeal B

10. The stone shed lies within a tight group of buildings arranged as a former farmstead. The group includes buildings of various ages and construction. The farmhouse with an attached barn and outhouse is Grade II Listed. Notwithstanding a gap between the Listed Building and other ancillary sheds to the south of it, the enclave of buildings forms a strong group with historic shared functionality and, according to the parties, single ownership.

Consequently, I find the appeal building lies within the curtilage of the Listed Building.

11. The appellant's historical mapping evidence shows the stone shed to be absent as of 1947, but present in 1956. It is not therefore conclusive that the building post-dates 1 July 1948 to exclude it from default listing under the terms of the GPDO¹ and s1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, there is little evidence before me to counter the appellant's assertion that the building was constructed after the relevant date. Therefore, on the balance of evidence and probability, I conclude that the proposal would not fall foul of the requirement in Q.1.(m), as determined by the Council.
12. The Council's assessment of the other requirements in Paragraph Q.1. identifies no other conflict with its qualifying criteria. On the basis of the evidence before me, I see no reason to disagree with that conclusion. It therefore falls to consider whether or not the Conditions outlined in Q.2. would be met.
13. The site lies at the end of a surfaced track providing access to the group of buildings from the A6. At my site inspection, I saw that visibility at the junction and forward visibility along the main road were suitable to provide adequately safe access and egress. The traffic associated with a single small residential unit would not, in my view, materially affect highway safety or capacity in the locality.
14. In its rural location on an inactive farmstead, there is little to indicate that, in normal residential use, the building would be affected or cause adverse effects through excessive noise. According to the appellant, the building has been used for housing of animals and limited storage. It is confirmed that this did not include a slurry pit or storage of fertilisers. In conjunction with the existing concrete floor coverage, the contamination risks are considered low.
15. The appellant states that the site lies in a Flood Zone 1 area. Although the proposed use would require domestic foul drainage provision, which could be conditioned, I see little reason to conclude that the proposal would have any significant effect on sources of flood risk in the locality.
16. There is no dispute between the main parties that the building lies within the setting of the Listed Building. As a proposal to utilise the building without significant alteration to its design or external appearance, the effects of its conversion would be largely restricted to activity associated with its occupancy and the domestication of a small area for garden and parking use.
17. Having regard to the duty under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I find those changes would be barely discernible from the main vantage points along the A6 due to screening provided by trees and vegetation. Some closer views would be afforded from the public right of way, however, these are also subject to screening by vegetation and some other outbuildings.
18. In the context of the farmstead where agricultural and domestic use within its enclave cross over and are otherwise ill-defined, I find the effect of the changes would be neutral. Furthermore, there are no other reasons presented to indicate that the location or siting of the building makes it otherwise impractical or undesirable to change use from agricultural to residential purposes.

¹ GPDO Article 2 Interpretation

19. The substantial glazing of the existing openings and augmentation of natural light through the incorporation of rooflights into the habitable spaces of the accommodation would, in my view, provide adequate natural light within the building.
20. Taking all of the above together, I find that there is little to suggest or demonstrate that Conditions a-g in Paragraph Q.2. would not be met in the particular circumstances of the case.

Conditions

Appeal B

21. Section W (13) of Part 3 of Schedule 2 of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
22. I have considered the suggested conditions from the Council and had regard to Paragraph 56 of the Framework and the PPG. 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. A condition seeking appropriate drainage is necessary to avoid flood risk elsewhere. A condition requiring the removal of Permitted Development Rights under Classes A-E of Part 1, Schedule 2 of the GPDO is unnecessary as they exclude dwellinghouses formed under the Class Q provisions. A condition requiring environmental net gain is beyond the scope of matters relevant to the consideration of the prior approval. It would not therefore be reasonable to impose a condition for its requirement.

Conclusion

24. For the reasons given above, I conclude that Appeal A should be dismissed, and Appeal B should be allowed.

R Hitchcock

INSPECTOR

Schedule of Conditions to Prior Approval Ref. CU/2022/0007

- 1) The development must be completed within a period of 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Burton House Stone Barn BHCB212/PA/001/A, Burton House Stone Barn BHCB212/PA/002/A and Burton House Stone Barn BHCB212/PA/004/A.
- 3)
 - a) The development shall not be occupied until details of the surface water management and the disposal of sewage works have been submitted to and approved in writing by the Local Planning Authority.
 - b) The development shall not be occupied until the approved surface water management and the disposal of sewage works have been provided on the site to serve the development.
 - c) Before the dwelling is occupied a validation report (that demonstrates that the drainage scheme has been carried out in accordance with the approved plan) must be submitted to the Local Planning Authority.
 - d) The approved works shall be retained as such thereafter.

END.