



Appeal Decision

Site visit made on 28 March 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 12th April 2023

Appeal Ref: APP/D0840/W/22/3295671

Building and land, to the north of Brownsplit, Morwenstow, Bude, EX23 9PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).
 - The appeal is made by Mr David Boundy against the decision of Cornwall Council.
 - The application Ref PA22/00693, dated 24 January 2022, was refused by notice dated 14 March 2022.
 - The development proposed is the change of use of an agricultural building and land forming the curtilage of the building to 1 No. dwellinghouse (use class C3).
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Decision

1. The appeal is allowed, and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO for the proposed change of use of an agricultural building and land forming the curtilage of the building to 1 no. dwellinghouse (use class C3) at Building and land to the north of Brownsplit, Morwenstow, Bude, EX23 9PH, in accordance with the application Ref PA22/00693 made on 24 January 2022, and the details submitted with it including plan Nos. 20-0097 SS-01 Rev C and 20-0097 PL-010 Rev A, pursuant to Schedule 2, Part 3, Class Q paragraph Q.2 (1).

Application for costs

2. An application for costs was made by Mr David Boundy against the decision of Cornwall Council. This application is the subject of a separate decision.

Preliminary Matter

3. The Council added a postcode to the address originally given by the appellant. I have used this above as it makes the address more accurate.

Main Issue

4. The main issue is whether the proposed change of use constitutes permitted development under the provisions of Schedule 2, Part 3, Class Q of the GPDO.

Reasons

5. Paragraph Q.1 (i) of Schedule 2, Part 3, Class Q of the GPDO specifically allows the installation or replacement of windows, doors, roofs, or exterior walls. However, the Planning Practice Guidance¹ clarifies that the permitted

¹ Paragraph: 105 Reference ID: 13-105-20180615

development right assumes that the agricultural building is capable of functioning as a dwelling. Therefore, it is only where the existing building is suitable for conversion to residential use that it would be considered to have the permitted development right.

6. The existing building is a simple timber framed structure that is largely open to one side and enclosed on the other elevations by timber boarding. Above the height of about 1 metre there are narrow vertical gaps between each board. The pitched roof is clad in box profile sheeting.
7. The submission proposes the retention of the building in its entirety. Behind the existing timber boarding a new lining of insulated timber studwork would be fixed to the existing load bearing timber frame. This would be lined on its external face to provide a new weatherproof skin to the building inside the existing timber boarding.
8. The proposal also includes the retention of the existing roof covering and the building's structural frame. The structural report² confirms that the existing structural frame can support the additional loading associated with the change of use.
9. A new ground bearing concrete slab would be inserted into the building to support the proposed studwork and a new internal ceiling, whilst also providing a suitable ground level environment for a dwelling. I do accept that this work in addition to the proposed internal lining of the building is significant. However, with reference to *Hibbitt v SSCLG* [2016] EWHC 2853 the works proposed are not so significant that they would amount to either complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. The existing structural frame would maintain its structural purpose and would support the proposed internal lining. Additionally, the building's external skin would retain its role as a functional exterior surface to the building, albeit supplemented by the internal lining to enhance the performance of its walls sufficient for the building to function as a dwelling.
10. The writer of the structural report states that he was unable to conclude that any elements that are covered, unexposed or not already accessible are free from defect. Given the nature of the existing building, this could only apply to the existing foundations below ground. I note that no trial pits were dug to confirm the depth of the existing foundations or that they extend down to adequate bearing strata. However, they were inspected and measured at ground level by the Structural Engineer who wrote the submitted structural report and found them to be adequate. I note that a previous Structural Engineer also confirmed that the existing foundations are adequate to support the loading from a conversion.
11. The appellant confirms that the existing timbers have not been treated using a method that might prevent their retention in a building that would become a dwelling. I am satisfied that there is nothing before me and nothing that I observed at my visit that should cause me to doubt this or the professional observations of two Structural Engineers.
12. The Council has drawn my attention to three appeal decisions. In the appeal for Barn at land North of Higher Welby³ the Inspector stated that the structural

² Simon Bastone Associates Ltd Structural Inspection Reference R210447/SI/00 05 November 2021

³ Planning Inspectorate Ref: APP/D0840/W/22/3292152

report did not include any structural calculations and that its findings were not definite. Accordingly, the Inspector was unable to conclude that the building would have suitable capacity to withstand the proposed works without additional intervention to the primary structure. This differs from the proposal before me whereby the structural report is clear and conclusive, and supported by calculations.

13. At Barton Hill Farm⁴ the proposal required an extensive programme of internal work which would have provided support for retained parts of the existing structure, and the roof covering was to be replaced. Thus, the proposal would have left the existing building as a largely redundant and potentially non structural shell. This is significantly different to the appeal proposal before me, whereby the existing external envelope would be retained in its entirety and primary elements would retain their structural role.
14. At Cherry Tree Farm⁵ the circumstances were similar in some respects to the proposal before me. However, it is clear on reading the Inspector's decision that he was assessing a scheme that was lacking in detail, and that, based on the limited detail before him, he found that there would need to be substantial rebuilding within the building's existing frame and shell. This led the Inspector to conclude that the building was not suitable for residential conversion so as to benefit from the permitted development right. The submission before me is sufficiently detailed. I am satisfied that it is reasonable for me to reach a different conclusion than the Inspector did at Cherry Tree Farm for the reasons I have given. Therefore, none of the appeal decisions referred to by the Council cause me to reach a different conclusion on the proposal before me.
15. In summary, I have found that the proposed change of use constitutes permitted development under the provisions of Schedule 2, Part 3, Class Q of the GPDO. The Council confirms that it has no concern with any of the prior approval matters set out at paragraph Q.2 (1) of Class Q. Based on the evidence before me and my own observations on site I can see no reason to disagree.

Conditions

16. The Council suggested two conditions that it considered should be imposed if the appeal is allowed. It is not necessary to impose a time limit condition as a limit of three years is imposed by paragraph Q.2 (3) of Class Q. It is not necessary to impose an approved plans condition as the development must be carried out in accordance with the submitted details. For the avoidance of doubt however I have referred to the plans in paragraph 1.

Conclusion

17. For the reasons above, the appeal should be allowed, and prior approval granted.

A Tucker

INSPECTOR

⁴ Planning Inspectorate Ref: APP/D0840/W/20/3251518

⁵ Planning Inspectorate Ref: APP/F2605/W/20/3259563