



Appeal Decision

Site visit made on 3 May 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2023

Appeal Ref: APP/B3410/W/22/3311494

Land off Yoxall Road, Morrey, Burton upon Trent DE13 8PE

- 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) Order 2015 (as amended) (GPDO).
 - The appeal is made by Mr Allen Brown against the decision of East Staffordshire Borough Council.
 - The application Ref P/2022/00911, dated 25 July 2022, was refused by notice dated 16 September 2022.
 - The development proposed is the change of use of an agricultural barn to a single dwelling, with parking, residential curtilage and access to the highway.
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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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of an agricultural barn to a single dwelling, with parking, residential curtilage and access to the highway at Land off Yoxall Road, Morrey, Burton upon Trent DE13 8PE in accordance with the application Ref P/2022/00911 dated 25 July 2022, subject to the conditions in the attached schedule.

Main Issues

2. Class Q of Schedule 2, Part 3 of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses). Additionally, Class Q allows for building operations which are reasonably necessary to convert the building to a Class C3 use.
3. The Council consider the level of construction and structural works proposed would go beyond that which are reasonably necessary for the building to function as a dwellinghouse. The Council also reference concerns relating to the effect of the development on the rural setting of the building. Although the appellant does not consider it necessary for the application to show an access or to include a curtilage, the description of the proposal and the submitted plans show these details and I have considered the appeal accordingly.
4. The main issues therefore are:
 - a) whether the proposed building operations would 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, as amended; and,

- b) whether the location or siting of the building would make it impractical or undesirable for it to change from an agricultural use to a use falling within Class C3 (dwellinghouse) of the Use Classes Order, having regard to the character and appearance of the area.

Reasons

Building operations

5. The appeal building comprises of a rectangular timber framed agricultural building which is externally finished in metal cladding, with openings on one of its elevations. The proposal would utilise the existing timber frame which a Structural Statement considers is satisfactory for the conversion of the building to a residential dwelling.
6. The Structural Statement sets out its limitations on unexposed hidden areas of the building which do not enable an identification to be made of the type of foundations or the condition of buried timber posts. It does however state that preliminary structural calculations indicate the existing frame and foundations will be able to support some minor additional loadings.
7. The Council considers that substantial works would be required, but they have also acknowledged that the new floor, internal partitions to form rooms and insulation would not be development. Externally, based on the submitted information, the proposal would involve the retention of the existing wall cladding and roofing material which already provide a good degree of enclosure to the building. Although reference is made to replacement matching cladding where necessary, based on my site observations of the condition of the external fabric of the building, I consider the extent of such works would be limited. The number of windows and doors proposed would also be reasonably necessary to facilitate the conversion.
8. Paragraph 105¹ of the Planning Practice Guidance states 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 a residential use. In this regard, the Council considers the proposal would amount to a rebuild of the structure. My attention has also been drawn to the Hibbitt² case which establishes the magnitude of the building works is key in order to be permitted under Class Q as a 'conversion'. Whilst I accept that the works proposed are wide-ranging, based on the evidence before me, including that there would be no significant structural alterations and the extent of works to the exterior fabric of the barn, the proposal can be considered a conversion of a building.
9. I conclude that the proposed building operations would be reasonably necessary for the building to function as a dwelling house and the proposed development would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

¹ Reference ID: 13-105-20180615

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

Character and appearance

10. The appeal site forms part of a field in a countryside location. The gently rolling landscape which is formed of fields and open areas of land bounded by hedges and trees, contributes to the distinctly rural character of the area.
11. The Council has raised concerns on the impacts arising from the length of the driveway and from the parking of vehicles in an open countryside location. The driveway would however use an existing access from Yoxall Road and whilst I note its length and that it would be through an existing field, it would be formed of a permeable gravel track, with a central grass mound. This would reflect a traditional agricultural track, albeit other tracks in the area may be historic. The parking and turning area would be formed of a cellular grassed paving system and be of a limited size and positioned close to the appeal building. As such, and whilst acknowledging the parking of vehicles would introduce domestic activity on the site, I do not consider for the aforementioned reasons, that it would harmfully erode the rural character and appearance of the area.
12. Accordingly, I conclude the location and siting of the proposal would not make it impractical or undesirable for it to change from an agricultural use to a use falling within Class C3 (dwellinghouse) of the Use Classes Order having regard to the character and appearance of the area.

Other Matters

13. Concern has been raised regarding the transport impacts of the proposal, including the proposal increasing the risk of conflict between different highway users, with reference to the narrow road, limited visibility and the lack of street lighting, amongst other factors. The proposal would give rise to additional vehicle movements, but having regard to the scale of the proposal, for a single dwelling and based on my site observations of this section of Yoxall Road being lightly trafficked, I do not consider that there would be any unacceptable adverse transport or highway impacts arising.
14. Reference has been made by the appellant to a number of appeal decisions. I am however required to assess the proposal on its own merits. Having done so in this case, I have found the proposal to be acceptable for the reasons set out.
15. I have taken account of all other matters, including reference to the planning history and the accessibility of the site but these do not alter my conclusions in regard to the main issues.

Conditions

16. Any change of use granted under Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO is subject to the condition Q.2(3) which specifies that the development shall be completed within a period of 3 years starting with the prior approval date. I shall impose a condition specifying the approved plans in the interests of certainty.
17. The Council has suggested conditions relating to the disposal of foul and surface water, vehicular access, parking and turning, and details of boundary treatment. I consider these to be necessary to ensure the adequate drainage of the site and flood prevention, for highway safety reasons and in the interests of the character and appearance of the appeal building and the area respectively.

For the sake of clarity and enforceability, I have amended the wording of the suggested conditions as appropriate.

18. A condition relating to contamination has been suggested by a consultee. I appreciate the site has been used as a working farm, but there is no evidence of potential contamination sources that could pose a risk to human health. I do not therefore consider this condition to be necessary.

Conclusion

19. For the above reasons, I conclude that the appeal should be allowed.

F Rafiq

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (2002_001_C), Proposed Block Plan (2002_102_C), Proposed Site Plan (2002_103_C), Proposed Ground Floor Plan (2002_104_C), Proposed Roof Plan (2002_105_C), Proposed Elevations (2002_106_B), Proposed Elevations (2002_108_B), Proposed Sections (2002_110_B) and Proposed Sections (2002_112_B).
- 2) The dwelling hereby permitted shall not be first occupied until a scheme for the disposal of foul water and surface water has been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 3) The dwelling hereby permitted shall not be first occupied until the vehicular access, parking and turning provision have been provided in accordance with the approved plans. The vehicular access, parking and turning provision shall be retained and kept available for their intended purposes.
- 4) The dwelling hereby permitted shall not be first occupied until details of the boundary treatment to the residential curtilage have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling and retained thereafter.

End of Conditions