



Appeal Decision

Site visit made on 7 June 2023

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Appeal Ref: APP/Y1138/W/22/3312112

Crossways Farm, Cheriton Bishop, Exeter, Devon EX6 6JD

- 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 and Mrs Chatfield against the decision of Mid Devon District Council.
 - The application Ref: 22/01711/PNCOU, dated 5 September 2022, was refused by notice dated 28 October 2022.
 - The development proposed is described as prior notification for the change of use of agricultural building to dwelling under Class Q.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of 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 from agricultural building to dwelling under Class Q at Crossways Farm, Cheriton Bishop, Exeter, Devon EX6 6JW, in accordance with the terms of the application Ref: 22/01711/PNCOU, dated 5 September 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted must be completed within a period of three years from the date of this decision in accordance with Schedule 2, Part 3, paragraph Q.2 (3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 977 22 Site and Location Plan, 977 12 Plans & Elevations Barn 2 As Existing, and 977 32B Plans & Elevations Barn 2 As Proposed.
 - 3) Prior to first occupation of the dwelling, the adjacent agricultural building (to the North of the proposed dwelling and shown to be removed) shall be demolished and all resulting materials shall be removed, or be recycled on, the site within 3 calendar months of that date.

Preliminary Matters

2. In the interests of consistency, I have used the site address from the Appeal Form in the banner heading above.

Main Issue

3. Class Q (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits the 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 to the Use Classes Order. Class Q (b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above.
4. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO having particular regard to the requirements of Paragraph Q.1.(i) in relation to works reasonably necessary for the building to function as a residential unit.

Reasons

5. Class Q 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 to the Use Classes Order, and building operations reasonably necessary to convert the building.
6. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that development is not permitted if it would consist of building operations other than: (i) the installation or replacement of — (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
7. The Planning Practice Guidance (the PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted.
8. However, the PPG clarifies 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 residential use. It is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right. This is a matter of fact and degree and requires an element of judgement.
9. My attention has been drawn to the judgement handed down in *Hibbitt v SSCLG* [2016] EWHC 2853 (the Hibbitt Case) which relates to the difference between conversions and rebuilding dealt with under Class Q. This is important because if a development does not amount to a conversion it would fail to be development permitted under Class Q (b). The case suggests that an agricultural building may be so skeletal and minimalist that the works needed to alter it to be used as a dwelling would be of such a magnitude that it would be tantamount to a new build or rebuild.
10. The appeal building is a substantial timber framed barn with a compacted stone and earth floor. The barn has one fully open elevation, with the remaining

elevations exhibiting timber weatherboard cladding. The pitched roof is predominately a metal sheet covering, with areas given over to provide a number of rooflights. The roof is supported by timber purlins and rafters.

11. A structural survey provided in support of the application, concludes that the appeal building is in good structural condition and is suitable for conversion without additional structural works needed. In terms of works, the proposal would involve the enclosure of the south east elevation, with new doors and windows being inserted and internal works to include provision of insulation fitted to the inside of external walls. The existing roof and external timber weatherboard cladding would be retained, albeit with minor repairs and alteration to the roof to remove some of the rooflights. A new floor finish would be inserted, and whilst I note the Council's concerns regarding concrete pad foundations, it is noted that the author of the structural survey has confirmed that no structural intervention would be required in that respect.
12. The Council raised doubts regarding the condition of the external cladding and roof. Although some works would be required in that regard, there did not appear to be significant areas or gaps that would require substantial intervention or replacement, with only isolated repairs appearing to be necessary.
13. There would be new windows and doors inserted and, more fundamentally, an entirely new external wall would be required on the south east elevation. However, those proposed works would be necessary to provide enclosure of the living accommodation and would allow light and air to internal rooms. As such, they would be necessary to allow the building to function as a dwelling. Internally, the lining of the structure and the construction of partition walls fall within the scope of the permitted development rights conferred by Class Q of the GPDO.
14. As noted above, the Hibbitt Case considered the difference between conversion and rebuilding. That case, however, involved a proposal to convert a steel framed barn which was largely open on three sides and which proposed the construction of all four exterior walls. The proposal before me, by contrast, involves a building fully enclosed on three sides. With the exception of the insertion of doors and windows, these three elevations would remain unaltered with the roof being retained. The starting point would not, therefore, be a skeletal structure, as was the position in the Hibbitt Case.
15. Whilst there would be a substantial amount of works required to make the building suitable for residential accommodation, the proposed works would be permitted by paragraph Q.1(i) of the GPDO. In that regard, the proposed works would constitute a conversion of the building rather than a rebuilding. I therefore conclude that the building operations involved would be to the extent necessary for the building to function as a dwellinghouse and, consequently, the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Conditions

16. Planning permission granted for the change of use of agricultural buildings to dwellinghouses under Schedule 2, Part 3, Class Q of the GPDO must be completed within a period of 3 years, starting with the prior approval date, in order to comply with paragraph Q.2(3). I have therefore imposed a condition to

this effect for the avoidance of doubt. In the interests of certainty, I have also imposed a condition requiring that the development is carried out in accordance with the approved plans. A further condition regarding the proposed demolition of the adjoining structure, prior to occupation of the dwelling is reasonable and necessary in the interests of safeguarding the living conditions of future residents.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed, and prior approval granted.

Mr A Spencer-Peet

INSPECTOR