



Appeal Decision

Site visit made on 29 March 2023

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2023

Appeal Ref: APP/H2733/W/22/3309247

Holmefield, Scalby Road, Scalby, North Yorkshire, Scarborough YO13 0NL

- 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 appeal is made by Mr J Tamblin of Tamblin Ltd against the decision of Scarborough Borough Council.
 - The application Ref 22/00991/P3Q, dated 9 May 2022, was refused by notice dated 5 July 2022.
 - The development proposed is change of use of agricultural buildings to form 1 no. 4 bed and 1 no. 2 bed dwellings (Use Class C3).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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), planning permission is granted for: (a) 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; or (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule. Such development is permitted subject to the conditions, limitations and restrictions set out within paragraph Q.1. (a) to (m) inclusive.
3. Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required, subject to assessment against the criteria listed in paragraph Q.2.(1).

Main Issue

4. The main issues are:
 - Whether the proposed development complies with the conditions, limitations or restrictions applicable to development permitted by Class Q of the GPDO.

- Transport and highways impacts of the development.

Reasons

Whether permitted development

5. The appeal site comprises two agricultural barns, described as Barn A and Barn B. The proposed development is their conversion to provide two single-storey detached dwellings. The barns sit close together and parallel to one another. I will address the proposals in relation to each barn in turn.

Barn A

6. The submitted details illustrate the structural changes proposed to convert the barns into dwellings. On Barn A, this includes the provision of render to cover the existing concrete blockwork walls and replacing the asbestos roof with a metal roof.
7. The submitted evidence indicates that in the intervening period between the submission of the appeal and my site visit, Barn A sustained significant storm damage. Representations have been received from an interested party, including photographs of the damage, which clearly show the walls and roof of approximately half of the building had collapsed.
8. By the date of my visit remedial works had taken place to repair the damaged structure. The works included the construction of new concrete blockwork walls and the installation of a new metal roof to replace the previous asbestos roof. Part of the original structure comprising its walls and roof remained in place at the southern end of the building, though this comprised less than 50% of the overall building. The lean-to 'store' building attached to Barn A remained without a roof at the time of my visit. Other than the store building and the roof material, the layout, scale and appearance of the buildings at the time of my visit appeared to closely resemble the details shown on the submitted 'existing' plans.
9. Paragraph Q.1 (i) of the GPDO permits the installation or replacement of windows, doors, roofs or exterior walls to the extent reasonably necessary for the building to function as a dwellinghouse and partial demolition to the extent reasonably necessary to carry out such works. The Planning Practice Guidance (the PPG) sets out 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. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
10. The appellant contends that any work undertaken in connection with the storm damage will constitute a repair rather than re-building (i.e. like for like), as it would with repair to any property or outbuilding that has been damaged by weather.
11. Notwithstanding that the damage sustained to the building appears to be the unfortunate result of a weather event, having regard to the judgment in

*Hibbitt*¹, I must consider whether the works undertaken would amount to a conversion or rebuild.

12. In this case, the evidence before me demonstrates as a matter of fact and degree that a significant portion of the original building collapsed, and some of its external walls and roof were no longer in existence. It therefore appears clear to me that the works cannot fall within the parameters of Paragraph Q.1 (i) of the GPDO because the works amount to a rebuilding operation beyond the scope of the permitted development right.
13. Whilst I do not doubt that the finished development, if granted, would meet the *Gravesham*² definition of a dwellinghouse, that is not the test in this instance. Moreover, *Gravesham* was concerned with a building that had been used for residential purposes subject to restrictions, and such issues are not at play in this appeal.
14. Furthermore, on the basis that significant works necessary for the building to function as a dwellinghouse have already been undertaken, the proposal fails to meet the provisions of paragraph W (11) of Part 3 of the GPDO, which stipulates that the development must not begin before the occurrence of one of 3 instances; none of which are applicable in this case.
15. Whilst the works would not alter the roof profile, or indeed the general profile of the building, cumulatively there would be extensive works undertaken which casts significant doubt in my mind that the building is suitable for conversion to a residential use. Accordingly, for this reason, the works to Barn A do not comprise permitted development for the purposes of the GPDO.

Barn B

16. Barn B is detached from Barn A and the evidence indicates that it was not affected by the damage sustained to Barn A. My observations at my visit were consistent with this.
17. The external works would include the installation of new window and door openings, a replacement roof, replacement of timber cladding, and rendering of some of the existing concrete blockwork surfaces. However, the proposals would not extend beyond the profile of the existing building and would not comprise an enlargement. Although significant internal works would be required, these would be contained within the outline of the existing building and would be necessary to enable the building to function as a dwellinghouse. As such, I am satisfied that these works would fall within the parameters set by paragraph Q.1 (i) of the GPDO.

Conclusion on whether permitted development

18. Although I find no conflict with the provisions of the GPDO in respect of Barn B, the proposed works to Barn A would go beyond what could reasonably be described as the conversion of an agricultural building. Therefore, the proposed development overall does not benefit from permitted development rights.

¹ *Hibbitt and another v Secretary of State for Communities and Local Government* (1) and *Rushcliffe Borough Council* (2) [2016] EWHC 2853 (Admin).

² *Gravesham BC v SSE & O'Brien* [1984] 47 P&CR 142; [1983] JPL 307.

Transport and highways

19. Other than an annotation and arrow on the site plan, the submission provides very limited details to illustrate how the site would be accessed or where parking would be provided for residents and visitors. The appellant's statement specifies that access would be provided via the existing route from the A171 via the driveway serving the main house of Holmefield.
20. The appellant's case sets out that the site would remain as a 'single planning unit' as part of Holmefield post-development, and that the proposed dwellings are to be used by family members. It is stated that there is ample parking close to the house for users of the main house and users of the proposed accommodation. Accordingly, the appellant considered it unnecessary to show allocated parking spaces within the scheme.
21. However, the GPDO contains no provisions to restrict the occupancy of dwellings granted under this process. As such, if permission were granted, there can be no guarantee that the properties would not be sold or let independently in the future. The issue of transport and highways, specifically in respect of vehicular access and parking provision, is therefore a valid issue that requires clarification. Accordingly, the submitted details fail to demonstrate how the proposed development would function to avoid adverse transport and highways impacts.

Conclusion

22. For the reasons given above, I conclude that the appeal should be dismissed.

P Storey

INSPECTOR