



Appeal Decision

Site visit made on 4 July 2023

by S Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/K0425/W/22/3294482

Silvretta Barn, Lower Icknield Way, Longwick HP27 9SA

- 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.
 - The appeal is made by Mr Matthew Gomme against the decision of Buckinghamshire Council.
 - The application Ref 21/07172/PNP3Q, dated 15 July 2021, was refused by notice dated 9 September 2021.
 - The development proposed is partial change of use and conversion of existing agricultural barn building to create 1 x 3-bed dwellinghouse and associated operational development.
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Decision

1. The appeal is allowed and 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 partial change of use and conversion of existing agricultural barn building to create 1 x 3-bed dwellinghouse and associated operational development at Silvretta Barn, Lower Icknield Way, Longwick HP27 9SA, in accordance with the terms of application Ref 21/07172/PNP3Q, dated 15 July 2021, and the plans submitted with it, subject to the condition that the development must be completed within a period of three years from the date of this decision and subject to the following additional condition:
 1. Prior to the first occupation of the development, details of the proposed parking space shall be submitted to and approved in writing by the local planning authority and implemented. The approved parking spaces shall be retained for their intended purposes throughout the life of the development.

Application for costs

2. An application for costs was made by Mr Matthew Gomme against Buckinghamshire Council. This application is the subject of a separate decision.

Preliminary Matter

3. The appeal site is described by the Council as 'Barn at Longwick Mill'. At the site visit I identified the barn from the details be for me and saw the name 'Silvretta Barn' on the access gate. On that basis I have used the appellant's description in the banner heading and in my formal decision above.

Main Issue

4. The main issue in this case is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Reasons

5. Class Q 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 3 (dwellinghouses) of the Schedule to the Use Classes Order¹ (Class Q (a)) and any building operations reasonably necessary to convert the building referred to in paragraph 9a) to a dwellinghouse (Class Q (b)). There is no dispute between the parties that the barn is an agricultural building and as such Class Q (a) is satisfied. The issue for consideration therefore is whether the proposed building operations are reasonably necessary to convert the building to a house.
6. Paragraph Q.1 (i) places restrictions on the building operations which can be undertaken under this class. It states that development is not permitted if it would consist of building operations other than: (i) the installation or replacement of windows, doors, roofs or external walls or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition reasonably necessary to carry out the building operations.
7. Paragraph 105 of the Planning Practice Guidance (PPG) provides further clarification. The permitted development right assumes that the agricultural building is capable of functioning as a dwelling and permits 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. 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.
8. The building is five bay barn constructed with a steel portal frame. The proposal seeks the conversion of part of the building to a three-bedroomed dwelling with all accommodation at ground floor level. The remainder of the building would be retained as a car port and workshop.
9. The part of the barn to be converted has blockwork and corrugated metal sheet walls and a corrugated steel roof within which there are clear roof panels that allow light into the building. To the front of the building are full-height roller shutter doors and two substantial steel gates. The building has a concrete floor slab. The Structural Report submitted with the application indicates that the existing steel frame is in good condition with the columns set into pad foundations. The concrete floor slab is also in good condition.

¹ The Town and Country Planning (Use Classes) Order 1987 as amended.

10. To enable the conversion, new windows would be inserted into the existing cladding, the roller shutter door replaced with bi-fold doors and the metal gates replaced with cladding and new windows. Limited detail has been provided about how these new elements would be installed but nevertheless such works are acceptable in accordance with the terms of the PPG. Internally, new walls would be constructed to separate the dwelling from the car port and to create individual rooms. These walls would be constructed off the existing floor slab. There is no evidence before me to demonstrate that the floor or foundations are inadequate for this purpose. A new timber frame, fixed to the existing block walls and steel frame by metal studs, would support insulation and internal facing plasterboard.
11. The structural engineer notes that the existing frame will play a structural and functional role in the development by supporting the windows, doors and roof. The structure is strong enough to take the loading and will not need further strengthening. The report, carried out by qualified structural engineers, carries significant weight in my determination.
12. I understand that prior to this application an application for full planning permission was refused by the Council and a subsequent appeal dismissed². The Inspector in that case considered that the only element of the building that would remain would be the steel frame. On that basis he concluded that the proposal did not amount to a conversion. Accordingly, the proposal in that instance involved a greater amount of rebuilding, than that before me. Moreover, those cases pre-dated the 'Hibbitt' case³. That case set out that there is a logical distinction between conversion and rebuilding and that it is a matter of legitimate planning judgement where the balance lies. The proposal in that case related to an open sided barn, considered incapable of functioning as a dwelling. Again, that is significantly different to the case before me.
13. The GPDO does not require the building to currently function as a dwelling but requires the extent of the works to be reasonably necessary for that purpose. In this case, the substantive part of the building, the foundations, steel frame, floor slab, and part of the exterior walls and roof would be retained. As set out above, those elements have been found to be structurally sound, even if the appearance of the cladding is somewhat visually roughshod.
14. Whilst some of the external appearance of the building would be changed, such change is limited and is permitted by the GDPO. The proposed internal works, including the construction of the timber frame and new walls, which may need to be designed to specific noise and fire resistant standards, are significant but nevertheless do not in themselves require planning permission. Moreover, it is understood that the building was constructed sometime in the 1980's and it seems to me that its method of construction, without insulation, is not unusual for an agricultural building. The construction of a timber frame to support the insulation and internal walls for rooms normally associated with a dwelling is not unreasonable and I am unconvinced by the Council's argument that the proposal amounts to a 'building within a building'.

² APP/K0425/W/16/3155301

³ *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853

15. The Council has referred me to an appeal for the conversion, demolition and replacement of two agricultural buildings elsewhere in the area⁴. That case was for full planning permission, and was in the Green Belt where certain policy considerations applied. Those policy tests, the determination of whether the building was of 'permanent and substantial construction', do not apply to this case for prior notification. In any event, I note the Inspector found that there were open unenclosed sections within the building and that extensive building work was required to enable the conversion. As such, the proposal is not directly comparable with that before me.
16. For the above reasons, the proposed works are reasonably necessary to meet the requirements of paragraph 105 of the PPG and therefore also those of paragraph Q.1 of the GPDO.

Prior Approval

17. Paragraph Q.2 of the GPDO sets out that where development proposed is development under Q(a) and Q(b), it is permitted subject to a condition that the developer must apply for a determination as to whether prior approval is required for certain matters. The Council states in its officer report that the proposed development is considered to comply with considerations a) to f) of Q.2, which address matters relating to transport and highway impacts, noise impacts, contamination risks, flooding risks, the location or siting of the building and the design and external appearance of the building respectively.
18. There is no compelling evidence before me to lead me to an alternative conclusion from that of the Council on the matters set out in a) to f). No objections to the proposal have been raised on these or other matters. Accordingly, on the basis of the evidence before me, I conclude that prior approval is not required.

Conditions

19. Paragraph W (13) of the GPDO sets out that procedurally a local planning authority is entitled to grant prior approval subject to conditions, where they reasonably relate to the subject matter of the prior approval. In granting approval the GPDO requires at Paragraph Q.2(3) that the development must be completed within a period of 3 years from the date that the prior approval is granted. Paragraph W.(12) of the GPDO requires that the conversion is carried out in accordance with the details provided in the application.
20. The Council has suggested that an additional condition relating to the provision of parking space would be necessary were the appeal to be allowed. It is unclear from the submitted plans where the appellant intends to park vehicles. In the interests of both the appearance of the area and in order to prevent indiscriminate parking which may affect the living conditions of nearby residents such a condition is reasonable and necessary.
21. For the reasons given above and taking into account all other matters raised, the appeal is allowed and approval is granted subject to these conditions.

S Ashworth

INSPECTOR

⁴ Appeal Ref: APP/K0425/20/3262639

