



Appeal Decision

Site visit made on 25 July 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2023

Appeal Ref: APP/U2235/W/22/3302704

Overbridge Farm, Marden Road, Staplehurst, Kent TN12 0JH

- 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 Dermot Budd against the decision of Maidstone Borough Council.
 - The application Ref 22/501135/PNQCLA, dated 11 March 2022, was refused by notice dated 28 April 2022.
 - The development proposed is Conversion of steel framed barn with corrugated sheeting to a single dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development provided on the appeal form as this more accurately and concisely describes the proposed development than that included on the application form or decision notice.

Background and Main Issue

3. Class Q (a) of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (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) permits building operations reasonably necessary to convert the building referred to in (a) above.
4. The evidence before me indicates that the Council contends that the building operations would not comprise a conversion. Whilst the Council has referred to paragraph Q.1(i), the question of whether a proposal comprises a conversion for the purposes of Class Q precedes any consideration of matters set out under paragraph Q.1.
5. Indeed, the main parties have both cited the judgement in *Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin) (the 'Hibbitt Judgement'). Paragraph 26 of that judgement states:

'First, the concept of "conversion" is found in the overarching provisions of Class Q (not in Q.1) and it thereby introduces a discrete threshold issue such that if a development does not amount to a "conversion" then it fails at the first

hurdle and there is no need to delve into the exceptions in Q.1. It is thus a freestanding requirement that must be met irrespective of anything in Q.1...

6. The building which was the subject of the Hibbitt Judgment was different to the appeal proposal. However, the Hibbitt Judgment is directly relevant to the approach to be taken in consideration of whether a proposal comprises a conversion.
7. As such, the main issue in this appeal is whether the proposed change of use and building operations would be permitted development under Schedule 2, Part 3, Class Q of the GPDO and in particular: whether the development would comprise a conversion.

Reasons

8. The existing agricultural building comprises a steel frame, a profiled metal sheeted roof and corrugated steel walls on three elevations. The fourth elevation, facing west, is partially open. Approximately one quarter of this elevation includes a corrugated steel wall, with the steel frame exposed for the remainder. There is a partial concrete floor, with the remainder of the floor laid to grass.
9. The evidence before me is by no means conclusive on the precise detail of construction works proposed, with the appellant asserting in final comments that a schedule of work is not required under the GPDO. However, various documents were provided by the appellant in submitting the application to the Council, each of which provide an indication of the likely construction work required. These included, a structural report¹ (dated September 2019), a supporting planning statement² (dated May 2021) a technical drawing (indicative) and a subsequent supplementary statement from a chartered surveyor (undated)³.
10. Together, this evidence indicates that the building, as it stands, is structurally sound. The evidence also indicates that the frame of the building is capable of supporting the loads required for the proposal. Notwithstanding this, the structural survey indicates that new ground floor slabs will be required, as well as new foundations for perimeter and external walls. The report does include a discussion of internal walls and it also refers to a 'new roof construction'. Paragraph 3.3 of the planning statement states:

'The building operations reasonably necessary to convert the building includes [sic] only the installation of walls in the three open-bays on the western elevation; the insertion of doors and windows, and the replacement of the external cladding with black corrugated cladding on the roof and all external elevations.'
11. Taken together, this evidence indicates that new walls would be required. Whilst the supporting planning statement indicates that new wall will only be required on the open bays, it also suggests replacement cladding will be required. Given that the existing walls currently primarily consist of cladding, they too would effectively be replaced. Despite these conclusions the supplementary statement argues that *'Although it is suggested that the*

¹ R & J Structural Solutions Ltd

² Bloomfields Chartered Town Planners

³ Kent Project Partnership Ltd

external corrugated iron sheeting should be replaced in my opinion much of it could be saved’.

12. However, even if the existing cladding is retained then the evidence still suggests that substantial internal walls would be needed (as well as a large section of new cladding to the western elevation), along with a new roof and significant new components to comprise a floor. As a result, of the original building, only the steel frame (including roof structure), the existing partial concrete slab and perhaps the cladding to three sides, would remain.
13. Whilst I accept that the evidence indicates that the building is structurally sound, that is just one consideration in determining whether or not a proposal comprises a conversion, as is made clear in the Hibbitt Judgement. Indeed, whether or not a building is a conversion is a matter of planning judgement. Even if assuming that there would be no structurally significant operations, the large physical extent of the new walls, roof and floor would be such that the resultant dwelling would constitute a new building as opposed to a conversion.
14. The National Planning Practice Guidance outlines that it is only where the existing building is already suitable for conversion to residential use that the building can be considered to have the permitted development right under Class Q. I accept that conversions often require relatively extensive operational works, such as those listed under paragraph Q.1(i). However, as indicated in the Hibbitt Judgement, there must be a point where operational works stop comprising a conversion and start comprising a new building. Indeed, whilst operations listed under paragraph Q.1.(i) can comprise permitted development, that does not automatically mean that any building operations comprising walls, doors, a roof and windows must fall within the definition of a ‘conversion’.

Other Matters

15. Both main parties have referred to the Council’s approach to determining the planning application and in particular, whether it had reference to the correct information in reaching its conclusion. However, these procedural matters have no bearing on my conclusion in this case, which is based on the evidence before me.
16. The appellant refers to an adjacent building granted prior approval under Council application reference 21/505937/PNQCLA. This building is also said to have been open on one side (more so than the existing building subject of the current appeal) and was assessed by the same person as being structurally sound. In that case, the Council granted prior approval. Notwithstanding this, I am not bound by the Council’s decision, or indeed its approach to that decision.
17. Whilst I recognise that consistency in decision making is crucial, I have based my decision on the evidence before me and the precise case-specific circumstances. On that basis, the existing approval does not alter my conclusions. Similarly, the fact that a broadly positive pre-application response was received by the appellant does not have any bearing on my decision.

Conclusion

18. Whilst the existing building may be structurally sound, significant and transformative building operations would be required which would be tantamount to a new building. As such, the development would not comprise a

conversion for the purposes of Class Q. The proposal is therefore not permitted development.

19. Given this conclusion, it is not necessary to consider whether the proposal meets the other requirements set out under paragraph Q.1(i).

20. For the reasons given, the appeal is dismissed.

Luke Simpson

INSPECTOR