



Appeal Decision

Site visit made on 4 July 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2023

Appeal Ref: APP/K0235/W/22/3309441

13 Rookery Road, Wyboston, Bedford MK44 3AX

- 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), 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 Kevin Gough against the decision of Bedford Borough Council.
- The application Ref 22/01270/CPNQ, dated 27 May 2022, was refused by notice dated 19 July 2022.
- The development proposed is conversion of agricultural barn to form a single dwelling including associated building operations reasonably necessary to convert the building.

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(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO') for the conversion of agricultural barn to form a single dwelling including associated building operations reasonably necessary to convert the building at 13 Rookery Road, Wyboston, Bedford, MK44 3AX in accordance with the terms of the application Ref 22/01270/CPNQ, dated 27 May 2022, and the details and plans submitted with it, including plans 21-01E, 21-02A and 21-03. The approval is subject to the condition set out in Paragraph Q.2(3) of Schedule 2, Part 3, Class Q of the GPDO, that the development must be completed within a period of 3 years starting with the date of this decision.

Preliminary Matters

2. It is clear from the submitted evidence that the proposal falls to be determined under Class Q(b) of Schedule 2, Part 3 of the GPDO. This permits 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, together with building operations reasonably necessary to convert the building to a dwellinghouse.
3. A determination first needs to be made as to whether the proposal constitutes permitted development in accordance with Paragraph Q.1.(a) to (m). The Council contends the development is not permitted development under Paragraph Q.1.(i) parts (i) and (ii) on the basis that insufficient information has been submitted to evidence that the proposed building operations would not exceed what is considered to be reasonably necessary for a conversion.
4. In the event development is permitted, Paragraph Q.2 sets out a number of conditions. Condition Q.2.(1) requires that the developer must apply to the local planning authority for a determination as to whether the prior approval of

the authority will be required as to a number of prior approval matters set out in sub-sections (a) to (g). There is no dispute between the parties that the proposal meets prior approval matters relating to (b) noise, (c) contamination risks, (d) flooding risks, (e) whether the location is impractical or undesirable, (f) the design or external appearance of the building, or (g) adequate natural light. However, the Council refused to grant prior approval for (a) transport and highways impacts. I shall formulate the appeal's main issues accordingly.

5. For prior approval applications under Part 3, Paragraph W(10) requires that account must be taken of any representations received and regard must be had to the National Planning Policy Framework (July 2021) so far as relevant to the subject matter of the prior approval. I shall consider the appeal on this basis.

Main Issues

6. The main issues in this appeal are:

- Whether the proposal would be permitted development for the purposes of the GPDO having regard to whether sufficient evidence has been presented to demonstrate that the building is capable of conversion through building operations that would be reasonably necessary for the building to function as a dwellinghouse to comply with Paragraph Q.1(i)(i) and (ii) of the GPDO, and
- If found to be permitted development, whether or not the transport and highways impacts would be acceptable so as to comply with Paragraph Q.2.(1)(a) of the GPDO.

Reasons

Whether building operations are reasonably necessary

7. The appeal building is a barn which is formed by a series of timber framed trusses. External walls on all sides of the building are constructed from a brick dado wall above which is timber studwork which supports timber cladding. The barn's roof is clad in corrugated metal sheets, and it has a concrete slab floor. The barn contains a number of window and door openings, some of which have been bordered up. From my observations on site, which included going inside the building, I saw it was enclosed and intact on all sides and appeared to be in good condition inside and out.
8. A prior approval application is not subject to the same rigours as a planning application. The Planning Practice Guidance (the PPG) describes the prior approval process as a 'light touch'. The PPG provides further clarification¹ about the scope of permitted building operations. The permitted right assumes that the agricultural building is capable of functioning as a dwelling and hence 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 goes on to state that it is not the intention of the GPDO 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.

¹ PPG Paragraph: 105 Reference ID: 13-105-20180615

9. Hibbitt² reinforces that it is a matter of planning judgement as to whether the level of works involved would constitute a conversion. The case established that the building should be capable of conversion without new structural elements, and the existing building should be sufficiently robust to bear the loading from external works. Paragraph 105 of the PPG has been revised since Hibbitt and no longer includes the requirement that the existing building be structurally strong enough to take the loading which comes from the external works to provide for residential use.
10. The PPG recognises that for an agricultural building to function as a dwelling it may be appropriate to undertake internal structural works, including internal walls, which are not prohibited by Class Q. The proposed plans show that internal wall divides would be installed to make individual rooms. Likewise, further alterations including the insulation of the building and connection of services are more limited in nature and also remain in accordance with those permitted under Q1(i) of the GPDO. Glazing would be installed in existing openings and limited new openings. The GPDO permits the installation of doors and windows and makes no distinction between structural and non-structural works. New elements such as the replacement roof, new window and door openings and rooflights would require alterations to the building's outer fabric. However, such operations would be necessary to make the building weatherproof and suitable for human habitation and would not, in the circumstances of this case, amount to a rebuild. This is especially given the extent of the original fabric that would be retained.
11. A Structural Report (SR) was submitted with the application. This document indicates that, whilst there is some evidence of minor structural distress, including minor rot and loss of timber towards the base of a couple of timber posts, and cracks within the brick dado wall with evidence of downward movement, these are localised issues which, it is stated, are not serious enough to prevent the redevelopment of the building. The SR notes that, whilst localised repairs to timber posts and the timber roof trusses will be required, the barn's existing timber framework was found to be performing well and could support the required additional loads for the proposed conversion. Furthermore, the proposed conversion would not require new foundations or additional structural work to take place and would utilise the barn's existing timber frames, purlins, brick dado walls and timber cladding, in addition to the existing concrete flooring.
12. Nonetheless, the Council state that the SR was primarily based on a visual assessment and does not include load calculations of the roof, detailed investigations of the timber purlins and trusses which support the roof or investigation or calculations into the brickwork dado wall. In support of their case the Council reference appeal decisions³ in which, it is stated, the Inspectors found that the surveys undertaken were not sufficiently robust to demonstrate that the conversions could be supported without any significant structural interventions.
13. In the first of these decisions the Inspector noted that the structural survey provided was only a 'simple assessment' which concluded that there was limited additional capacity for light weight perimeter wall loadings. In the second of these decisions the Inspector found that it was not apparent from the

² Hibbitt v SSCLG & Rushcliffe BC [2016] EWHC 2853 (Admin)

³ APP/K0235/W/20/3261812 and APP/K0235/W/22/3298667

visual inspection report whether the structures had existing lateral stability to support their conversion to residential use, noting that the findings of the inspection and recommendations within it cast reasonable doubt over whether the structures were sufficiently robust to be converted to dwellings without requiring substantial building operations.

14. The SR confirms that the barn is capable of conversion without new structural elements based on a visual inspection and photographs of a trial pit below the dado wall and that based on this information it was concluded further intrusive investigations would not be necessary. I have not been presented with any compelling evidence which casts doubt over whether the proposed works can be supported without significant structural interventions. Consequently, whilst consistency in decision-making is important, the appeal proposal differs from the cases referred to by the Council. In any event, any development proposal must be considered upon its own individual merits.
15. To conclude on this main issue, I am satisfied that sufficient information has been provided to evidence that the building is capable of conversion and that the proposed building operations do not go beyond what could reasonably be described as a conversion to allow the building to function as a dwellinghouse and would comply with the provisions of Q.1.(i)(i) and (ii) of the GPDO.

Transport and highways impacts

16. The barn is accessed via an existing agricultural track off Rookery Road with an associated dropped kerb. Rookery Road is lined by a deep grass verge at the site access and a pavement runs along the opposite side of the road. At my mid-morning site visit I observed that Rookery Road was very lightly trafficked, with a limited number of pedestrians using the footpath. I observed that Rookery Road contained a number of driveways with opportunities to park on the road in between. Where there were parked cars on the road, they did not appear to impede the free flow of traffic, and visibility was good in both directions from the site access. Whilst this is a snapshot in time, there is nothing in the evidence before me to indicate that my observations are atypical of the area.
17. The car parking spaces to serve the proposed dwelling would be located approximately 25 metres from the site access. The site layout does not make provision for a turning area, and thus it would be necessary for vehicles to either access or exit the site in a reverse gear along the stone surfaced driveway. Given the length and specification of this track, it may not be desirable for all drivers accessing or exiting the property to reverse this distance. This could result in vehicles parking on the road on some occasions. Nonetheless, even should future occupiers choose to park on Rookery Road, there is no shortage of potential on-street parking options, and it has not been clearly demonstrated that such parking associated to this scheme could be fairly anticipated to lead to problems with the free flow of traffic or the safe operation of the highway.
18. The grass verges which line Rookery Road appear to constitute highway land. Thus, visibility onto Rookery Road for vehicles exiting the site would be gained over land which does not fall under the control of the appellant. Nonetheless, during my site visit I observed the grass verge in question to contain limited vegetation and visibility over it to be good in both directions and there is no clear reason to suppose that such circumstances shall cease to prevail in the

future. Furthermore, Rookery Road is served by a pedestrian footpath on the opposite side of the road. Consequently, the number of pedestrians walking along the grass verge is likely to be low and any risks of collisions between vehicles exiting the site and pedestrians walking along the grass verge is likely to be very minimal. In light of this, notwithstanding the absence of formal pedestrian visibility splays contained within the site's redline area, I have not been presented with any persuasive evidence to demonstrate that available visibility at the site's access would be likely to cause any problems with the safe operation of the highway or to result in the realistic potential for conflict with pedestrians.

19. The site layout shows a bin storage area which would be located on the driveway a short distance from the proposed dwelling, approximately 18 metres from Rookery Road. Given the depth/ capacity of the grass verge and its proximity to the site access, it is fairly anticipated that future occupiers would wheel bins onto this verge temporarily for collection rather than beyond it and on to the carriageway. Further, even when factoring in the current stone surfaced nature of the driveway, it would not be unreasonable or unrealistic to require future occupiers to wheel bins this short distance across a level route from the storage area onto the grass verge for collection on bin collection day. Moreover, when noting the lightly trafficked nature of Rookery Road and that a single unit of accommodation is under consideration, I have not been presented with any convincing evidence to demonstrate that the collection of refuse from the site would have an adverse effect on road safety or be detrimental to the free flow of traffic. Thus, I conclude that appropriate provision for the collection of waste and recycling would be made.
20. In light of the above, I am satisfied that the transport and highways impacts of the proposal would be acceptable and would comply with Paragraph Q.2.(1)(a) of the GPDO.

Conditions

21. Any prior approval and planning permission granted for the development under Article 3(1) and schedule 2, Part 3, Class Q of the GPDO is subject to the condition under Q.2 (3) which specifies that the development shall be completed within a period of 3 years starting with the prior approval date. I am content that no further conditions are required.

Conclusion

22. For the reasons above the proposal is permitted development under Schedule 2, Part 3, Class Q(b) of the GPDO. The appeal is allowed and prior approval is granted.

Nichola Robinson

INSPECTOR