



Appeal Decision

Site visit made on 7 August 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2023

Appeal Ref: APP/L3245/W/22/3303191

Agricultural building at The Stackyard, Hatton Barns, High Hatton, Shrewsbury SY4 4EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr and Mrs N D Bratton against the decision of Shropshire Council.
 - The application Ref 22/01491/PMBPA, dated 25 March 2022, was refused by notice dated 11 May 2022.
 - The development proposed is the change of use of existing former agricultural building to 1no. dwellinghouse including creation of residential curtilage.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of existing former agricultural building to 1no. dwellinghouse including creation of residential curtilage at Agricultural building at The Stackyard, Shrewsbury, SY4 4EZ in accordance with the terms of the application, Ref 22/01491/PMBPA, dated 25 March 2022, and the details submitted with it including 'Block plan and location plan- drawing no 22/347-101' and 'proposed plans and elevations- drawing no 22/347-103', pursuant to Article 3(1) and Schedule 2, Part 3, Class Q, paragraph Q.2(1) and the following condition:
 - 1) No development shall commence until: (1) a detailed scheme for the investigation and recording of contamination and remediation objectives has been submitted to and approved in writing by the local planning authority; (2) detailed proposals for the removal, containment or otherwise rendering harmless any contamination (a Remediation Method Statement) have been submitted to and approved in writing by the local planning authority; (3) the works specified in the Remediation Method Statement have been completed and a Verification Report submitted to and approved in writing by the local planning authority in accordance with the approved scheme; and, (4) if during remediation works, any contamination is identified that has not been considered in the Remediation Method Statement, then remediation proposals for this material shall be agreed in writing by the local planning authority.

Preliminary Matters

2. This appeal relates to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Class Q (a) 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 Class C3 use (dwellinghouse). This provision also includes, at (b) development

referred to in paragraph (a) together with building operations reasonably necessary to convert the building.

3. A recent appeal¹ for Prior Approval, under Class Q of the GPDO was dismissed on the same site. The main issue was the building's suitability for conversion with respect to its resultant external appearance. The Inspector found that the scheme would be suitable for conversion but would increase the external dimensions of the building and thus fail to meet Paragraph Q.1(h). The current scheme is materially different to the dismissed appeal as insulation is now proposed to be internally applied retaining the current external dimensions of the building. I shall pay regard to this decision with respect to this appeal, where considered relevant.

Main Issue

4. The matters of dispute between main parties relate to whether the proposed conversion would comply with the provisions of Paragraph Q.2(1)(e) and (f). Paragraph Q.2(1)(e) relates to whether the location or siting of the building makes it impractical or undesirable for the proposal to take place. Paragraph Q.2(1)(f) relates to the design or external appearance of the building.
5. Consequently, based on the submitted evidence I conclude that, the main issue is whether the proposal would be permitted development under the provisions of Schedule 2, Part 3, Paragraph Q.2(1)(e) with particular respect to the provision of external space and Q.2(1)(f) with regard to the building's external appearance.

Reasons

Siting and location of the building

6. The Council acknowledge that provision Q.2(1)(e) does not require a test of sustainability and that the GPDO grants planning permission in principle for a dwelling subject to the limitations and restrictions of Paragraphs Q.1 and Q.2. The Council's concerns relate to the provision of external space resulting in an impractical and undesirable location or siting for the proposed dwelling.
7. The test of 'Impractical or undesirable' is not defined in statute and are deemed to be ascribed a reasonable ordinary dictionary meaning by the Planning Practice Guidance (PPG). As discussed in the PPG a conversion may be impractical where an agricultural building is on the top of a hill with no road access, power source or other services. It also identifies that an undesirable affect would be those that would be harmful or objectionable.
8. Paragraph X of the GPDO, defines the curtilage of Class Q development, as being either a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser. In other words, this provision seeks to limit the size of the curtilage and establishes a maximum requirement, rather than a minimum. This provision also makes no distinction between whether the barn conversion would create one level or a multi-level living space.

¹ Planning Appeal Reference: APP/L3245/W/21/3276084

9. The proposed external area would be 147m² which is smaller than the footprint of the barn at 148m². As such, the proposal would maximise the provision of external space, within the restriction of Paragraph X. The area provided is a consolidated space adjacent to the entrance door. The space would be adjacent to the long elevation of the building forming an adequate space for family use that would be neither harmful nor objectionable. I am therefore unconvinced that the location or siting of the proposal would result in an undesirable form of development due to the provision of the external space.
10. Accordingly, the siting of the proposed development would not result in development that would be impractical or undesirable. Consequently, the proposal would satisfy Paragraph Q.2(1)(e).

External appearance

11. The appeal site is at the terminus of a relatively long drive with built form on both sides. Surrounding barn structures have been converted into residential use, some include timber cladding. Other buildings in the immediate area are predominantly brick. However, the context includes farm buildings, such as the nearby barn, this is constructed of block and corrugated sheeting. As such, the local built form consists of a diverse range of styles, scales and materials.
12. Where prior approval is required in relation to the effect of development on the 'external appearance' of a building, it will be a matter of planning judgment as to whether consideration should be given to the building's intrinsic design and its relationship with adjoining or nearby properties. Consequently, whether the external appearance of the building, and whether any design changes are appropriate, is a matter of planning judgement.
13. The proposed conversion would largely retain the building's existing external cladding and would not extend the external dimensions of the barn. Consequently, the proposal would include only minor changes to the external appearance of the building. These would be reserved to the addition of new doors and windows that would be reasonably necessary for the building to function as a dwellinghouse, an alteration permitted by virtue of paragraph Q.1(i)(i)(aa) of Class Q. The existing appearance of the building, with steel plate panels and corrugated fibre cement/asbestos cement cladding panels, suits its countryside location and conveys a traditional rural character. As a result, the converted building would give the appearance of a sensitively converted rural building.
14. The proposed external changes would be limited and retain its appearance as a rural building. The proposed work would not therefore result in the creation of an "alien feature" within this village setting, due to the limited change proposed to the external appearance of the building. As such, the proposal would preserve the character and appearance of the site and its surroundings.
15. Consequently, the proposed development would satisfy paragraph Q.2(1)(f) of the GPDO.

Other Matters

Former use of the barn

16. Interested parties have disputed that the last use of the barn was for agricultural purposes. Paragraph Q.1(a) of the GPDO states that the class does

not apply to buildings that were not solely used for agricultural use on 20 March 2013 or when its last use was not agricultural. Main parties agree that the agricultural use of the barn ceased in 2007. Since that time the evidence suggests that it has been used for occasional storage in association with the works to develop the adjacent site. Nonetheless, whilst the barn has previously been used for storage that use appears to have been occasional and temporary.

17. During my visit I noted that the barn internally consisted of a series of small spaces formed by metal partitions from when the building was used for grain storage. The layout and design of the buildings seems to have been specifically designed for this sole agricultural purpose and does not appear to have been materially altered since the use ceased. These divisions, plus the staircase and grain lifting mechanism, would have limited any substantive alternative use of the building for storage or other purposes.
18. The appeal building is functionally divorced from agricultural activity and appears to have lain dormant for many years. The Appellants have indicated that the barn was used in connection with Beeches Farm, and this has not been refuted by the Council. Therefore, despite noting concerns raised by interested parties, I am content that the building was associated with an agricultural use in satisfaction of Paragraph Q.1(a)(ii). Moreover, I am unconvinced that sale particulars, describing the building as being used for 'storage', provides meaningful evidence that the use of the barn should now be considered different to its agricultural origins.
19. Therefore, whilst the barn appears to have not been in active agricultural use 20 March 2013, the evidence indicates that the building was last used for agricultural purposes before this date in satisfaction of Paragraph Q.1(a).

Conversion or new build

20. Interested parties have asserted that the building would be unsuitable for conversion and made reference to planning guidance, case law and other appeal decisions as evidence.
21. The PPG explains that "the right 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. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house" and that "internal works are not generally development". It also states 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"².
22. Further guidance is provided by the Hibbitt Judgement³, where it was found that in some cases a barn might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such magnitude that in

² PPG Paragraph 105

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

practical reality what is being undertaken is a rebuild. This is clearly not the case for the appeal building. Hibbitt also found that a conversion could not include works that “went a very long way beyond what might sensibly or reasonably be described as a conversion”.

23. Within this framework it is a matter of planning judgement as to whether the proposal falls within the definition of conversion. Accordingly, it is the magnitude of the work which is required which determines the distinction between conversion and the construction of a new building.
24. The Appellants’ Structural Assessment⁴ (SA) explores the condition of the interior and exterior of the building and takes into consideration the effect of the proposed works to create the dwelling. It finds the building to be suitable for conversion, with the retention of the roof, walls and floor. Although no loading calculations have been provided, I have nothing material before me that contradicts the assertions and professional opinions advanced in the SA. The SA notes that the steel frame is primed with protective paint and appears to be in good condition. It recommends that paint protection be upgraded for maintenance purposes. My own observations concurred that whilst showing some signs of age, the steel frame appeared intact and in need of protective painting only. Therefore, I see no compelling reason within the evidence to disagree with the conclusion of the assessment.
25. The existing concrete floor seemed to be in generally good condition and seems capable of accommodating the required work to construct internal walls. Whilst the central grain store hole would need filling, this alone does not suggest the work required to the floor would be substantial.
26. Several internal steel walls, and some vertical and horizontal bracing, would be removed. The construction would create new goal post structures around the new cut openings in the steel walls to provide stability. These would provide support to the first floor. It is also noted that most plate walls would be retained with new rooms designed around them. Therefore, whilst the internal works would be relatively extensive, these additions would supplement the retained steel frame and are not considered to be substantial structural work. These works would be in accordance with the Hibbitt Judgement that recognised that some internal structural works may be necessary to enable the building to function as a dwelling.
27. The report describes that lateral and vertical bracing provides inherent lateral stability and that some of this would need to be removed. The SA does not suggest that such removal would compromise the integrity of the structure. My own observations revealed that the steel framed structure and external cladding appeared to be in good condition and would not require substantive structural additions, reusing most of the existing building’s fabric. The combined works would result in minimal change to the appearance of the building.
28. Accordingly, I conclude that the proposal would only include works that would be reasonably necessary to convert the building and the proposal would amount to a conversion rather than rebuild. Furthermore, the previous Inspector also concluded that the building was suitable for conversion in

⁴ Report on Structural Inspection, Dragon Structural Engineering Consultants, dated 16/2/22

accordance with Paragraph Q(b) of the GPDO. This finding was recent and corroborates my own findings.

29. Interested parties have submitted examples of barn conversions that failed matters relating to structural integrity, upon application of the Hibbitt Judgement. Nevertheless, whilst each case must be considered on its own merits, the referenced appeal decisions identify significant structural concerns that I have not found in this case.

Other considerations

30. The Appellants have indicated a redlined site area that connects the building to the highway. Although interested parties suggest that access rights are 'debatable', no compelling evidence has been submitted that demonstrates that access could not be achieved. I am therefore satisfied that the Appellants have met the obligation to define a suitable access to the site.
31. The Council has submitted 12 appeal decisions for Class Q works within the district. Unfortunately, it has not explained the relevance of these decisions to its case or specific sections it would like me to take into consideration. Upon review most of these appeals were dismissed as the proposed development was either beyond the scope of a conversion and/or related to a building that were found to not be solely in agricultural use at the prescribed time. A case at Grove Barn, Shrewsbury included a main issue of dispute that related to the size of the curtilage. However, this case appeared to focus on poor/mixed annotations and exceeded the area allowed as curtilage. As such, these decisions have not been shown to be relevant to matters in consideration for this appeal.
32. An interested party has identified that the adjacent site was given planning permission for residential development and this approval was subject to a range of safeguards to ensure it complemented that area. Although this is noted, such consideration has no bearing on my assessment as to whether the proposal would meet the criteria of Class Q.

Conditions

33. Paragraph Q.2.(3) states that development under Class Q is permitted subject to the condition that development must be completed within a period of three years starting with the prior approval date. Further standard conditions are set out in paragraph W.(12) requiring development to be undertaken in accordance with the approved plans whilst paragraph W.(13) provides for additional conditions to be attached that are reasonably related to the subject matter of the prior approval. In this case a condition with respect to contamination would be necessary due to the identification within the SA of asbestos panels within the building in the interests of the wellbeing of future occupiers.

Conclusion

34. For the above reasons, the appeal is allowed, and Prior Approval is granted subject to the attached condition.

Ben Plenty

INSPECTOR