



Appeal Decision

Site visit made on 7 August 2023

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2023

Appeal Ref: APP/N2739/W/23/3318464

Agricultural Building to west of plot 15 West Bank, Carlton, Selby, North Yorkshire DN14 9PZ

- 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 David Pinchin against the decision of Selby District Council.
- The application Ref 2022/0901/ATD, dated 18 July 2022, was refused by notice dated 30 September 2022.
- The development proposed is the conversion of existing steel framed agricultural building to a dwelling.

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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the conversion of existing steel framed agricultural building to a dwelling at Agricultural Building to west of plot 15 West Bank, Carlton, Selby, North Yorkshire, DN14 9PZ, in accordance with the terms of the application, Ref 2022/0901/ATD, dated 18 July 2022, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q. The approval is subject to conditions set out by Paragraph Q.2.(3) of Schedule 2, Part 3, Class Q of the GPDO in that development must be completed within a period of 3 years from the date of this decision as well as the provisions specified in Paragraph W, and subject to the additional conditions in the Schedule at the end of this decision.

Preliminary Matters

2. The description of the proposed works on the application form included details about its former use and materials, which I have not replicated above as they are not a description of the proposed development.
3. The Council's decision was based on plans which were not particularly detailed. Schedule 2, Part 3, Paragraph W of the GPDO states that the Local Planning Authority may refuse a prior approval application where in its opinion the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval.
4. Amended plans for the proposed development have been submitted for the appeal, including plans of the existing building. With the exception of a change

in materials which I discuss further below, these plans broadly align with those on which the Council made its determination, but provide more precision and clarity. The Council and interested parties have had a chance to make comment on these plans. Therefore in the interests of natural justice, no parties would be prejudiced if I accept these revised plans for my determination, and so I make my decision on this basis. The revised plans now provide sufficient clarity to be able to compare the proposal against the existing building, and against the GPDO requirements.

Main Issue

5. The main issue is whether the proposed dwellings would comply with the permitted development requirements set out at Class Q of the GPDO, with specific regard to:
 - part Q.1.(a) as to whether the site has been used solely for an agricultural use as part of an established agricultural unit; and
 - parts Q.(b), Q.1.(h), and Q.1.(i) as to whether the external dimensions of the building would extend beyond those of the existing building, and the extent of the proposed cumulative works to the buildings being reasonably necessary to allow for conversion into a dwelling.

Reasons

Established Agricultural Unit

6. The site is located behind 15 West Bank, via a vehicular access track. The agricultural barn building comprises blockwork at lower level and box profile sheeting above and for its roof. The proposal seeks prior approval for the conversion of the barn into a 2 storey dwelling.
7. Class Q.(a) and (b) of the GPDO permit 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), together with building operations reasonably necessary to convert the building to this use, subject to a number of criteria. Part Q.1. sets the circumstances when development would not be permitted.
8. Under the GPDO Part Q.1.(a), development is not permitted if the site was not used solely for an agricultural use as part of an established agricultural unit, on a specified date. The date relevant to the proposal is 20 March 2013. The barn was constructed in 2004 in relation to the lettuce growing operation at that time, with this use ceasing in 2006, and sheep farming commencing in 2008. Although an interested party objects that the barn was erected for and used as a workshop rather than for agriculture, the appellant has identified how their fittings company business was not carried out in the barn but in external showrooms.
9. The appellant has also provided a range of evidence relating to the site in the period around March 2013. This includes a statutory declaration, DEFRA records, a witness statement from a person they paid to assist with lambing, sheering, and selecting sheep for sale, invoices for supplies and veterinary services, and a 2013 sales document with photographs including sheep and a sheep shelter on site. In the absence of substantial evidence to the contrary, and on the balance of probability, I am therefore satisfied that the site was in

use for agriculture on 20 March 2013. The proposal would therefore comply with the GPDO part Q.1.(a).

10. Under the GPDO part Q.1.(h), development is not permitted if the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. The revised plans now confirm that the external dimensions would remain as those of the existing building. The proposal would therefore comply with this part of the GPDO.

Proposed Cumulative Works

11. The Council also considers that the proposal would not comply with the GPDO parts Q.(b) and Q.1.(i). These include that development is not permitted if it would consist of building operations other than 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 building operations.
12. The Planning Practice Guidance (PPG) provides further clarification that this permitted development right assumes that the agricultural building is capable of functioning as a dwelling. It also identifies that it is not the intention of the 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 that it would be considered to have the permitted development right. No guidance is provided as to what 'reasonably necessary' may mean, which is a matter of judgement. My determination is based on whether I consider the works would be so extensive, substantial, or structural that they would amount to a complete or substantial re-building of the pre-existing structures, rather than conversions.
13. Although no structural appraisal has been submitted, my site visit did not identify any obvious significant structural damage. There is no evidence to suggest that the existing structural frame would not be retained. The internal first floor level and rooflights may require some additional internal structural support, but the PPG identifies that it may be appropriate to undertake internal structural works, including the insertion of an upper floor or internal walls. Overall, I find the works proposed would not be structural in nature.
14. The Officer's report based on the original plans stated that the design would be acceptable. The amended plans now identify the entirety of the box profile sheeting to be replaced with cedar wood cladding, and the entirety of the box profile roof sheeting to be replaced with slate tiles. This would result in only a very small proportion of the building remaining, comprising only low-level blockwork and the structural frame. This level of demolition and alteration would be so substantial and with such significant proportions of the materials being replaced, that cumulatively this would bring the works involved beyond that of a conversion. It would also not be reasonably necessary for the building to function as a dwellinghouse.
15. However, the original application form states that the existing building finishes are to be retained. The appellant's written evidence requests that if necessary, the imposition of a condition could require the retention of the existing materials for the walls and roof. The GPDO Class Q Part Q.2. identifies at (f)

that the design or external appearance of the building is relevant to the consideration of the prior approval, and therefore I am able to impose a condition relating to this matter. It would be reasonable and necessary to impose a condition that retains the existing walls and roof, except for the insertion of the identified apertures, as not to do so would cause the proposal to fall outside of the GPDO allowance. The Council has agreed that such a condition would be appropriate.

16. In considering the above aspects in totality, with the retention of the existing materials the extent of the proposed cumulative works to the building would therefore be reasonably necessary to allow for conversion into dwellings. As such, the development would be permitted by the GPDO parts Q.(b) and Q.1.(i).
17. Overall therefore, I find that it has been demonstrated that the proposed change of use to a dwelling would satisfy the requirements of Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

18. Interested parties have objected due to the principle of the location, that West Bank is an Historic Land Settlement Association, and that the design would be incompatible with surrounding dwellings. However, these matters do not fall under those which can be considered under a prior approval. While there are also objections relating to flooding and access, the site is not in a high flood risk zone, and the Council does not consider there would be any adverse traffic or highways impacts. I have seen no detailed evidence to suggest otherwise, and so concur with this view.

Conditions

19. Paragraph Q.2.(3) of the GPDO sets the standard conditions for development under Class Q. the GPDO Paragraph W.(13) allows granting of prior approval subject to conditions reasonably related to the subject matter of the prior approval. The Council has suggested conditions to require contamination investigation and necessary remediation. As these are related to one of the matters for which prior approval may be required, I have imposed these conditions, subject to slight amendments to reflect paragraph 56 of the Framework and the PPG.
20. I have also imposed a condition to specify the approved plans, excepting that the existing wall and roof materials must be retained and not replaced with cladding and tiling. This is to provide clarity, and is relevant to the design and external appearance of the building.

Conclusion

21. For the reasons given, I conclude that the appeal is allowed and prior approval is granted subject to conditions.

L Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan OS Map;
 - Location Plan dated July 2022;
 - HP-DP-06 Block Plan;
 - HP-DP-01 Existing Elevations;
 - HP-DP-03 Proposed Elevations, except in respect of the cedar wood cladding shown for the walls and the slate tiles shown for the roof, whereby instead the existing materials comprising the walls and the roof shall be retained;
 - HP-DP-04 Proposed Plan.
- 2) No development except for demolition shall commence until an assessment of the risks posed by any contamination, including the nature, scale, and extent of any land contamination, and the potential risks to human health, groundwater, surface water and other receptors, shall have been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, no development except for demolition shall commence until a report specifying the measures to be taken to remediate the site to render it suitable for the approved development, including the timescale, shall be submitted to and approved in writing by the Local Planning Authority.
- 3) If contamination remediation is necessary, prior to first occupation, the site shall be remediated in accordance with the approved measures and timescale, and a verification report shall be submitted to and approved in writing by the Local Planning Authority.
- 4) If during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its assessment and remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the Local Planning Authority.

END OF SCHEDULE