



Appeal Decisions

Site visit made on 13 September 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th October 2023

Appeal A Ref: APP/J0405/W/23/3325857

Home Farm, Mursley Road, Little Horwood, Buckinghamshire MK17 0PG

- 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 GPDO).
 - The appeal is made by Mr Harold Bowley against the decision of Buckinghamshire Council.
 - The application Ref 23/01516/COUAR, dated 13 May 2023, was refused by notice dated 6 July 2023.
 - The development proposed is described as the 'conversion of two barns to C3 residential units under Class Q of the 2018 GPDO'.
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Appeal B Ref: APP/J0405/W/22/3311146

Home Farm Mursley Road, Little Horwood, Buckinghamshire MK17 0PG

- 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 GPDO).
 - The appeal is made by Mr Harold Bowley against the decision of Buckinghamshire Council.
 - The application Ref 22/02824/COUAR, dated 8 August 2022, was refused by notice dated 3 October 2022.
 - The development proposed is described as the 'conversion of two barns to C3 residential units under Class Q of the 2018 GPDO'.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Applications for costs

3. The supporting documents indicate that an application for costs was made by Mr Harold Bowley against Buckinghamshire Council in respect of both appeals. However, only one cost application has been received and it is clear from the evidence therein that this relates to Appeal A. This application is the subject of a separate decision.

Preliminary Matters

4. Appeals A and B relate to the 2 separate buildings located at the same site. Where appropriate, I have considered the appeals together to avoid duplication.

5. In relation to Appeal B, amended plans have been submitted with the appeal. Whilst these indicate alterations to the positioning and extent of glazing, the scheme is fundamentally unchanged from the one that the Council considered and consulted upon. The appeal procedure has provided an opportunity for the Council to comment on these plans and therefore I do not consider that any party would be prejudiced by the acceptance of these plans. I have therefore determined the appeal accordingly.

Background and Main Issues

6. Schedule 2, Part 3, Class Q of the GPDO 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 use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order, together with building operations reasonably necessary to convert the building to the Class C3 use.
7. Permission under Class Q is conditional upon the developer first applying to the local planning authority for a determination as to whether prior approval would be required as to the matters set out in Paragraph Q.1(1). Schedule 2, Part 3, Section W of the GPDO establishes the prior approval process and states that the local planning authority may refuse an 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.
8. In relation to Appeal A, the Council contends that the proposal would fail to comply with the limitations set out in paragraph Q.1(i) of the GPDO. They also include further reasons for refusal in relation to the effect of the proposal on the design and external appearance of the building, protected species and conflict with the interpretation of curtilage as defined by paragraph X of Schedule 2, Part 3 of the GPDO.
9. Turning to Appeal B, the Council refused to grant prior approval on the basis that the proposal would fail to comply with the limitations set out in paragraph Q.1(d) and Q.1(i). In addition, the reason for refusal indicates that the effect of the proposal on the design and external appearance of the building would be unacceptable.
10. Therefore, having regard to the above, the main issues are:
 - whether the development proposed in Appeal A and Appeal B would be permitted development under Schedule 2, Part 3, Class Q of the GPDO; and if so,
 - the effect of the development proposed in Appeal A and Appeal B on the design and external appearance of the building;
 - the effect of the proposed development (Appeal A) on nesting and roosting birds;
 - whether the proposed development (Appeal A) would conflict with the interpretation of the word "curtilage" as defined by paragraph X of Part 3, Schedule 2 of the GPDO.

Reasons

Whether the proposals would be permitted development

11. Appeal A and Appeal B relate to the change of use of 2 agricultural barns to provide 2 dwellings. These buildings are part of a wider complex of agricultural buildings, which are physically connected although divided by intervening walls. It is proposed to demolish several of the existing buildings which are attached to the appeal buildings. The removal of these buildings would provide outdoor space for the proposed dwellings.
12. Paragraph Q.1(i) places restrictions on the building operations which can be undertaken. It states 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, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out these building operations.
13. Further to this, the Planning Practice Guidance (the PPG) states that the right under Class Q assumes that the existing agricultural building is capable of functioning as a dwelling. 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 right¹.
14. The PPG also refers to the case of *Hibbitt*² where it was held that the concept of 'conversion' is found in the overarching provisions of Class Q. Moreover, it introduces a discrete threshold whereby if a development does not amount to a 'conversion', then it would fall at the first hurdle, without having to delve into the exceptions in Q.1. The concept of 'conversion' has inherent limits which delineate it from a 'rebuild'. As Class Q refers to the concept of 'conversion' then it excludes 'rebuilt'. Whether or not the proposed works go beyond the scope of conversion and constitute a 'rebuild' is a matter of legitimate planning judgement with reference to the circumstances of the case.
15. The appeal buildings comprise of 2, precast concrete framed barns under fibre-reinforced concrete corrugated roofs which are largely enclosed on all sides. The external elevations consist of concrete corrugated sheeting, vertical timber together with concrete blockwork walls at the lower level. Timber boarding has been used to divide spaces internally and there is an upper storey in one of the barns, although this is outside the area proposed for conversion. Based upon these observations, I do not dispute the appellant's suggestion that the appeal buildings could be reasonably described as skeletal structures.
16. The Structural Appraisal includes details of loading and analysis of the existing frame and confirms that the buildings are suitable for conversion without significant structural works. The precast concrete frames are said to be in good condition with no sign of cracking, excessive deflection, or distortion and thus structurally capable of supporting the additional loading. In addition, the report indicates that the foundations are performing adequately and will be retained. I

¹ Paragraph Reference ID: 13-105-20180615

² *Hibbitt v SSCLG* [2016] EWHC 2853 (admin)

see no reason to doubt the findings of the appraisal and I am satisfied that it provides sufficient information in terms of structural matters.

17. The submitted plans in respect of Appeal A and Appeal B indicate that the rear parts of the existing buildings would be removed. Although the proposed plans for the respective appeals indicate differences in the external elevations, these are largely related to the extent and positioning of glazing. In both schemes, the existing corrugated roofing and external wall cladding would be removed and replaced with a mixture of concrete rendered panels, clear treated larch timber cladding and standing seam roofing.
18. I have had regard to the structural appraisal and acknowledge that, in structural terms, the precast concrete frames and foundations could support the proposals. However, the cumulative extent of works would be a fundamental and substantial change as none of the original external fabric would be retained. I recognise that the installation of windows, doors, roofs, and exterior walls can amount to works reasonably necessary for the building to function as a dwellinghouse. However, having regard to the relevant guidance and particular circumstances of the case, I do not consider that the buildings are already suitable for conversion to residential use. The extent of building operations set out within Appeal A and Appeal B would go beyond what could reasonably be required for the works to constitute a conversion. Accordingly, the appeal development as set out within Appeal A and Appeal B would not comply with Class Q.1(i) of Schedule 2, Part 3, Class Q of the GPDO.
19. Turning to Appeal B, paragraph Q.1(d) sets out that development is not permitted by Class Q if the development (together with any previous development under Class Q) within an established agricultural unit would result in a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Paragraph Q.3 defines a larger dwellinghouse as a dwellinghouse which has a floor space of more than 100 square metres and no more than 465 square metres.
20. Article 2(1) of the GPDO provides that, for the purposes of the Order, 'floor space' means the total floor space in a building or buildings. In view of the above floor space definition, any additional floor space created under Class Q would need to be considered when calculating the total floor space for the purpose of Q.1(d).
21. The submitted floor plans indicate that the proposed development would result in the provision of 2 larger dwelling houses and that the overall floor space would be more than 465 square metres. Accordingly, the appeal development as set out within Appeal B would not comply with Class Q.1(d) of Schedule 2, Part 3, Class Q of the GPDO.
22. The insertion of a mezzanine floor would not generally constitute 'development' under Section 55(2) of the Town and Country Planning Act 1990. In addition, the PPG indicates that internal structural works, including the insertion of a mezzanine within the overall residential floor space permitted would not be prohibited by Class Q³. However, this is within the context of works reasonably necessary to convert the building and does not indicate that these areas should be excluded from the total floor space measurement.

³ Paragraph Reference ID: 13-105-20180615

23. I have considered the imposition of a condition prohibiting the installation of a first floor. However, the appeal proposal seeks permission for associated building works and operations. The first floor is indicated on the proposed floor plans as providing residential accommodation and thus would be a key part of the scheme. As such, I do not consider that a condition removing this element would be appropriate. In any case, given my findings above, this would not lead me to a different conclusion.
24. For these reasons, I find that the proposed development set out within Appeal A and Appeal B would not be permitted development under Schedule 2, Part 3, Class Q of the GPDO.
25. I note the Council's concerns regarding the design and external appearance of the proposal detailed within Appeal A and Appeal B. I also acknowledge the concerns in relation to the extent of curtilage and the effect of the proposal on protected species. Whilst protected species are not specifically referred to in the GPDO, paragraph Q.2(1)(e) of the GPDO does require consideration of whether the location or siting of a building makes it otherwise impractical or undesirable to create a dwellinghouse. Additionally, section 40 of the Natural Environment and Rural Communities Act 2006 requires that every public authority must, in exercising its functions, have regard, so far as consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. In determining the appeal, I have had regard to the above matters. However, given my overall findings regarding the extent of works and proposed floorspace, I have not considered these matters further because they could not lead me to a different conclusion.

Other Matters

26. My attention has been drawn to several appeal decisions. As these decisions turn upon a judgement regarding the extent of building operations in a particular case, it is unsurprising that the outcomes will differ according to the individual circumstances of the relevant building. I have not been provided with the full details of the Green Farm scheme and therefore cannot make any informed comparisons. In relation to Wootton Fields Farm, it is noted that the cumulative floor space of the buildings changing use to dwellinghouses under Class Q did not exceed 465 square metres. Thus, the scheme was materially different.
27. It has been put to me by the appellant that the appeal proposals would contribute to the supply of family housing in an area of planning constraint and would also provide economic benefits to the construction industry. However, these are prior approval appeals and I have limited my consideration to only those set out in the GPDO and which are in dispute between the parties.

Conclusion

28. Accordingly, Appeal A and Appeal B would not be permitted development under Schedule 2, Part 3, Class Q of the GPDO. As such, both Appeal A and Appeal B are dismissed.

H Wilkinson

INSPECTOR