
Appeal Decisions

Site visit made on 19 September 2023

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2023

Appeal A Ref: APP/D1265/W/23/3317505

Gorse Farm, Fifehead St Quintin DT10 2AW

- 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 J Miller against the decision of Dorset Council.
 - The application Ref P/PAAC/2022/04206, dated 5 July 2022, was refused by notice dated 31 August 2022.
 - The development proposed is change of use and building operations to convert an existing agricultural building to two larger dwellinghouses.
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Appeal B Ref: APP/D1265/W/23/3317511

Gorse Farmhouse, Crate Hill, Fifehead St Quintin DT10 2AW

- 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 J Miller against the decision of Dorset Council.
 - The application Ref P/PAAC/2022/07193, dated 13 November 2022, was refused by notice dated 14 December 2022.
 - The development proposed is change of use and building operations to convert an existing agricultural building to two larger dwellinghouses.
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Decision

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

Preliminary Matters

3. The addresses above are taken from the relevant application forms. Whilst the addresses are different, the appeal site is the same for both appeals. Both appeals concern the same agricultural building.
4. Appeal A relates to an initial application under Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) seeking approval for the change of use of an existing agricultural building to 2 dwellinghouses under Q(a) and the building operations reasonably necessary to convert the building under Q(b). The initial application was refused on a single ground; that the development as proposed would not, in the Council's view, retain a sufficient extent of the building to

comprise a conversion. The Council thus took the view that the proposal would not constitute permitted development as per Part 3, Class Q(b) of the Order.

5. Appeal B relates to a subsequent application that sought to address the Council's concerns by retaining greater elements of the existing building. The amendments to the initial scheme did not fully address the Council's concerns and the reason for refusal is essentially the same in respect of both appeals. As such, whilst I have considered each proposal on its individual merits, to avoid duplication, Appeal B is assessed first. The assessment of Appeal B rationally informs my decision in relation to Appeal A. Unless otherwise indicated, I have dealt with the two schemes together.

Main Issue

6. The main issue in respect of both appeals is whether or not the extent of building operations proposed for the building to function as 2 dwellings would constitute a conversion.

Reasons

7. Class Q(a) of the Order 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), and, under Class Q(b), building operations reasonably necessary to convert the building for that purpose. This is subject to a number of situations where such development is not permitted, listed under Paragraph Q.1.
8. Paragraph Q.1 (i) places restrictions on the building operations which can be undertaken under this class. It states that development is not permitted if it would consist of building operations other than: (i) the installation or replacement of windows, doors, roofs or external walls or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition reasonably necessary to carry out the building operations.
9. The Planning Practice Guidance (PPG) provides advice¹ on the interpretation of Class Q. It clarifies that Class Q assumes that the agricultural building is capable of functioning as a dwelling(s). 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. 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.
10. The existing building is a steel framed barn, with a pitched roof clad in corrugated fibre cement sheeting. The northern and southern walls of the barn are partially open, comprising of blockwork lower walls. The western elevation mainly includes blockwork lower walls, metal and timber doors, and corrugated fibre cement sheeting at upper level. The eastern facing end of the barn is wholly open. Concrete slabs are present at ground level.

¹ Paragraph: 105 Reference ID: 13-105-20180615 Revision date: 15 06 2018

Appeal B

11. In relation to Appeal B, the appellant advises that new building fabric is only proposed where it is necessary to infill the gaps between the existing structural openings. It is proposed to retain the existing roof sheeting where possible, which would be sealed and insulated from the inside of the building. Works to the eastern elevation would involve timber infill cladding and new glazing between the existing open structure. On the western elevation, existing makeshift timber cladding would be removed, with openings infilled with blockwork to match existing. Existing metal profile cladding on the western elevation would be retained where possible, with damaged sheets replaced like for like. On both the northern and southern elevation, timber infill cladding would be added above the existing blockwork.
12. The appellants' structural report advises that there is no need for the undertaking of any structural works to facilitate the conversion of the building. However, the structural soundness of the building does not determine whether the proposal would amount to a rebuild / fresh build, taking into account the unenclosed nature of significant sections of the building.
13. Both parties refer to the Hibbitt legal judgement². It was accepted at paragraph 27 of the judgement that there is a logical distinction between a conversion and rebuild / fresh build, and that the divide between the two is a matter of legitimate planning judgment, with the test being one of substance.
14. The ability to undertake works to facilitate a conversion are quite broad under Class Q. However, the existing building is of a very rudimentary design and for it to be capable of being occupied as 2 dwellings, the proposal requires particularly extensive building works. The elements of existing blockwork in the western elevation would be retained, but these account for only limited sections of this elevation, and the central two bays would require infilling. Furthermore, the construction of a completely new external wall along the length of the building's eastern elevation would amount to substantial rebuild / fresh build. In combination with the other works noted above, the building operations would be of such magnitude that, in practical reality, what is being undertaken is a rebuild / fresh build rather than a conversion or re-use.
15. Additionally, I note that the structural report advises that, "If the barn was to be converted, the roof would need to be upgraded to meet current building regulations, with new roof coverings, insulation and ceiling finishes, etc supported on additional roof timbers." The structural report was submitted with the initial application and was not updated for Appeal B. Given it is proposed to retain the existing roof sheeting where possible, it is unclear, based on the structural report, whether retention of the existing roof sheeting to any great extent would be possible.
16. I have taken into account the appeal decision at Zoar Lane³. In that case, the building was fully enclosed on three sides and partially enclosed on the remaining side. Accordingly, I do not find the circumstances of that appeal wholly equivalent.

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

³ APP/N1215/W/17/3185230

17. The Council has highlighted an appeal decision at Moreton Road⁴ where the appeal buildings had open elevations fronting a courtyard, with the remaining elevations either fully or partially enclosed with half height block walls and profile steel sheeting. In relation to the Moreton Road appeal, the Inspector found that whilst the buildings were structurally sound, they would not be capable of functioning as dwellinghouses.
18. I have also taken into account the various decisions within Dorset drawn to my attention by the appellant. However, the characteristics of each building and proposal are different. Whilst consistency in decision making is important, none of the appeals or decisions drawn to my attention present wholly similar circumstances to the current appeal. The nature and extent of proposed building operations needs to be assessed as a matter of fact and degree in each case. As noted in Hibbitt, it is a matter of legitimate planning judgment as to where the line is drawn as to where a development is rebuild / fresh build and not a conversion. As such, I have considered the appeal on its individual circumstances and merits based upon the evidence before me.
19. Overall, I therefore conclude that the extent of works proposed would go beyond what could reasonably be described as conversion and they would, therefore, fall outside the scope of permitted development rights under Class Q(b). Accordingly, the proposal would not be permitted development.

Appeal A

20. The works proposed in relation to Appeal A involve additional rebuild, and are therefore more extensive, when compared to those proposed in Appeal B. It therefore follows that the extent of works proposed in Appeal A would necessarily also go beyond what could reasonably be described as conversion and they would, therefore, fall outside the scope of permitted development rights under Class Q(b). Accordingly, the proposal would not be permitted development.

Conclusions

21. For the reasons set out above, both appeals are dismissed.

S D Castle

INSPECTOR

⁴ APP/D1265/W/20/3250051