



Appeal Decision

Site visit made on 13 September 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2023

Appeal Ref: APP/J3720/W/23/3316039

Wynyard, Forshaw Heath Road, Forshaw Heath, Earlswood, Warwickshire B94 5JU

- 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.
 - The appeal is made by Mr H Wolton of Harry Wolton Ltd against the decision of Stratford-on-Avon District Council.
 - The application Ref 22/02464/COUQ, dated 11 August 2022, was refused by notice dated 6 October 2022.
 - The development proposed is conversion of agricultural building to 1 no. larger dwellinghouse.
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Decision

1. The appeal is dismissed.

Main Issue

2. Schedule 2, Part 3, Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) states that the local planning authority may refuse a prior approval application where 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 the above basis that the Council refused to grant the prior approvals.
3. The proposals relate to Schedule 2, Part 3, Classes Q(a) and (b) of the GPDO, which enable the change of use and conversion of an agricultural building to a dwellinghouse. That is subject to certain limitations, paragraph Q.1, and conditions, paragraph Q.2. The first main issue is whether or not the proposal would be permitted development having regard to Schedule 2, Part 3, Class Q of the GPDO.

Reasons

4. 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 building operations, as listed above.

5. The Planning Practice Guidance (the PPG) provides further clarification, including 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, such that 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.
6. In determining the appeal I have had regard to the judgement handed down in *Hibbitt v SSCLG* [2016] EWHC 2853 (referred to hereafter as the Hibbitt judgement). This addresses the extent to which building operations to facilitate residential use may be considered to amount to conversion of the relevant agricultural building. Briefly summarised, it explains that where the nature of works proposed would be so fundamental as to effectively result in a rebuilding of the relevant building based on planning judgement, this is not permissible. It further clarifies that the extent of works proposed is not in itself dispositive but rather a factor in determining whether the works proposed are part of a conversion or akin to a fresh build.
7. The existing barn is fully enclosed on one long elevation and one short elevation. On the other long elevation, two bays are enclosed, separated by an open bay into the main area of the barn. Two further bays on that elevation are open. The final short elevation is also open. With the exception of one bay that comprises a full height single skin brick wall, the elevations that are enclosed are comprised of a low level single skin brick wall with asbestos cement sheeting above. The roof is also comprised of asbestos cement sheeting. Accordingly the proposal would involve the vast majority of the existing walls as well as the entirety of the existing roof to be removed and replaced.
8. A Structural Report on Barn (by Glevum Structural Design Ltd, December 2021) (SR) is submitted with the appeal and appears to have been produced by a suitably qualified authority. It concludes that the building is in a serviceable structural condition and is thus suitable for conversion. The SR does not raise any concerns in respect of the longevity of the building's steel frame, in the event of its conversion to residential use. The integrity of that existing frame is not in dispute between the main parties and I see no reason to conclude otherwise.
9. The SR also finds that the absence of obvious damage to the existing structure indicates that the foundations are adequate and do not require strengthening. However, it states that this would be confirmed at a later stage through limited trial pits to expose the perimeter wall. Consequently, there is some uncertainty over the adequacy of any existing foundations and their ability to support the extensive conversion works.
10. Similarly, a loading check is included within the SR and finds that additional loading associated with its conversion would not compromise the integrity of the existing frame or foundations. However, that is described as a preliminary check. The SR confirms that the adequacy of the existing frame will be subject to consideration of the final proposed layout and architectural details. Moreover, whilst the SR refers to draft architectural drawings by KODA, it is unclear to what extent those drawings reflect the current appeal scheme. This raises doubts as to the weight that can be applied to the SR conclusions in respect of the ability of the existing frame and foundations to accommodate the proposed works without further substantive modifications to its structure.

11. Works of 'maintenance, improvement or other alteration' are exempted from the meaning of development under s55(2)(a) of the Town and Country Planning Act 1990. However given the lack of certainty just described, it is unclear whether existing foundations are suitable for the proposed conversion without works on a scale that would instead amount to fresh building works.
12. The SR also advises that the low level brickwork would require some repair in the form of limited repointing. However, it also highlights that one area of brickwork is disturbed by an adjacent tree. In addition, it references localised displacement of bricks at the base of the full height brick wall. In any event, it appears that the extent of the brick walls to be retained would be highly limited due to extensive areas of full height glazing proposed along its front and rear elevations.
13. Furthermore, the SR refers to a concrete slab in the central section of the building only. This slab appears to have some areas of considerable damage. Also, there is no concrete floor in the open section at one end of the building. As such it is highly likely that a new internal floor would be required throughout the building. Internal works could be exempted from the definition of development under s55(2)(a) of the Town and Country Planning Act 1990, provided such operations did not amount to rebuilding. However, without more definitive evidence it is likely that, when taken together the internal and external works necessary to convert the barn would be tantamount to rebuilding.
14. I note that the Council's Building Regulations team found the building to be in a reasonable condition and therefore suitable for conversion. Nevertheless, even if when taken individually the proposed building operations fall within those permitted under the GPDO, evidence before me indicates that very little of the existing building would remain.
15. Therefore, as a matter of planning judgement I find that the nature and extent of proposed works would exceed that which could be considered a conversion. Instead, with reference to the findings of the Hibbitt judgement and without substantive evidence to the contrary, the proposal would be akin to a fresh build. Consequently, I conclude that the proposal would not be permitted development having regard to Schedule 2, Part 3, Class Q of the GPDO.
16. The appellant has drawn my attention to an appeal decision relating to an agricultural building at Tidnor Cross Cottage (Ref APP/W1850/W/18/3203745). However in that case, the Inspector found that due to the proposed retention of the timber frame, the roof and part of the existing external walls, the extent of the proposed works was not so significant so as to amount to rebuilding. Similarly in respect of the appeal relating to an agricultural barn at Wicton Lane (Ref APP/W1850/W/18/3216155), the Inspector found that the existing metal and timber cladding, along with the structural frame, would remain in place, with the exception of where new windows are proposed. As such, the extent of the building operations required in those two schemes is not comparable to that which is proposed here.
17. Reference is also made to an appeal at The Greenhouse (Ref APP/W3330/W/21/3268761). Limited details are before me in respect of that scheme, albeit it appears to have related to a structure comprising block work walls, glazed panels and a floor slab all in sound condition, with some repairs required to cladding and low level walls. As such, it appears to have required

less wholesale changes to the existing building in comparison to this appeal scheme.

18. The appellant also refers to an appeal at St Michaels Farm (Ref APP/J1860/W/22/3310572). However, this also appears to propose retention and refurbishment of external cladding to the walls and roof rather than their replacement. Reference is also made to the floor slab being capable of withstanding additional loading from insulation and glazing. No such findings are before me in respect of this appeal. Therefore, the circumstances in these appeals are not sufficiently similar to alter my reasoning.

Other Matters

19. The appellant submits that the proposal would be of benefit to the quality of the Green Belt in light of its enhancement to the appearance of the existing building. Nevertheless, planning policy on the Green Belt is not relevant to consideration under Class Q of the GPDO.
20. As the proposal would not comprise permitted development, it is not necessary for me to consider compliance with other relevant limitations and conditions of the GPDO, such as in respect of protected species.

Conclusion

21. For the reasons given above, I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR