



Appeal Decision

Site visit made on 24 October 2023

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 November 2023

Appeal Ref: APP/J1860/W/23/3317525

Barn at The Vinney, Abberley, Worcester WR6 6BX

- 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 and Mrs A Meller against the decision of Malvern Hills District Council.
 - The application Ref M/22/01731/GPDQ, dated 23 November 2022, was refused by notice dated 19 January 2023.
 - The development proposed is notification for prior approval for the proposed change of use of an agricultural building to one dwellinghouse (Class C3) and associated operational development.
-

Decision

1. The appeal is dismissed.

Background and Main Issue

2. Class Q of the General Permitted Development Order (GPDO) permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouse) of the Use Classes Order and any building operations reasonably necessary to convert the building. The proposal is for both a change of use and the building operations involved.
3. The Council contends that it has not been demonstrated that the works involved would not go beyond a conversion and so fall outside the scope of the GPDO. The main issue is therefore whether the proposal complies with the description of permitted development under Schedule 2, Part 3, Class Q of the GPDO, with regard to the building operations necessary to convert the building to residential use.

Reasons

4. The appeal building is a dual-pitched roof barn with mono-pitch additions, originally used for housing sheep, hay and fodder. The building has a predominantly timber frame using poles, with blockwork walls, steel cladding and roof sheeting. As such, it is well enclosed.
5. GPDO Paragraph Q.1.(i) parts (i) and (ii) permit conversions including where they would involve building operations such as the installation or replacement of windows, doors, roofs, and exterior walls, and the installation of services, to the extent reasonably necessary for the building to function as a

- dwellinghouse. It also permits partial demolition to the extent reasonably necessary to carry out these building operations.
6. However, in establishing the extent of rights conferred by GPDO Class Q, both parties have referred to the High Court decision of *Hibbitt*¹. That case related to an open-sided building, whereas the proposal before me involves an enclosed structure, thus requiring less extensive works. Nevertheless, the principle established by the Court is that, based upon the suitability of the existing building, if a proposal does not amount to a conversion, then the provisions of GPDO Class Q do not apply.
 7. The Planning Practice Guidance (PPG) clarifies² that whilst internal structural works may be appropriate, the GPDO does not intend to allow rebuilding work beyond that necessary for conversion. There is no requirement, as implied by the Council, that conversion must be easily undertaken. Nor is the conversion of modern buildings precluded. The appellant has submitted a Structural Report and a Schedule of Works undertaken by a structural engineer, both dated October 2019. These were previously provided for an earlier Prior Approval proposal³ to convert the building, which was refused by the Council. The Structural Report and Schedule of Works are presented again as part of the appeal proposal.
 8. The Structural Report identified that the lower sections of some of the structural poles towards the front of the building showed signs of rot, requiring remedial repair work. A section of walling had a full height vertical crack, which also needed repair. Nevertheless, the Structural Report concluded that the principal structure was in fair condition and would not require structural alteration to be converted. It also found that, once converted, the building could resist the loads expected.
 9. The Schedule of Works identified that the existing walls, floor, roof and structure would be retained, but works necessary to the building included the remedial work to the poles and wall, upgrading insulation and the erection of internal walls. I do not have full details of the previously refused scheme, but the proposal has clearly evolved since the Report and Schedule were produced. I understand that fewer new openings are now proposed and that the existing metal cladding and roof sheeting would be retained, whereas in the previous scheme they were to be replaced.
 10. However, no updated survey has been submitted to demonstrate that the retained elements are now suitable for retention, particularly when the Structural Report found that some of the roof cladding was presumed to contain asbestos. The plans include new glazing and walling to divide the proposed car port from the rest of the building, but this post-dates the Schedule of Works. I have little evidence to show whether identified issues such as a gap in the external wall in one corner, the rotting of some of the poles, or the crack in a section of wall have worsened.
 11. The Structural Survey is now more than four years old. The appellant asserts that the building has not deteriorated in that time, but I have no substantive evidence such as an up-to-date survey or addendum from a structural engineer

¹ *Hibbitt and another v SSCLG and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin)

² Paragraph 105 Reference ID 13-105-20180615

³ LPA reference 19/01798/GPDQ

to confirm this. Even if normal weathering could be mistakenly confused for deterioration, as suggested by the appellant, it is possible that the building has degraded since 2019 to require a greater extent of works than was previously intended.

12. Indeed, on my visit, I observed that one of the poles towards the rear of the building now has a lower section missing, requiring remedial bracing and the use of a scaffold pole to provide additional support. I also saw that a section of the structure supporting the roof was missing. These were not referred to in the Structural Report or Schedule of Works, and so presumably post-date them. This suggests that there has in fact been some deterioration of the building.
13. As identified by the PPG⁴, the principle of the development has already been established and the Prior Approval process is intended to be light touch. As such, unnecessarily onerous requirements should not be sought. The Council has not provided evidence from a structural engineer. Even so, the GPDO makes clear that where the developer has not provided sufficient information to establish compliance with the conditions of the GPDO, the Council may refuse such an application.
14. In light of my findings, even if only partial demolition would be necessary, there are potential changes to the stability and suitability of the building, and additional alterations necessary, that are not accounted for in the 2019 Structural Survey or Schedule of Works. In the absence of up-to-date information, I am not satisfied that the building works required would be only those reasonably necessary to allow the proposal as a conversion. I cannot therefore conclude that the proposal would comply with the description of permitted development under Schedule 2, Part 3, Class Q of the GPDO.
15. The appellant has referred to appeal decisions within the same District. That at Holt Heath⁵ differs from the proposal because an update to the original structural report was before the Inspector. At Alfrick⁶, a much more up-to-date structural survey was available. The information before the Inspectors at Broadwas⁷ or at Hallow⁸ for similar proposals was sufficient to satisfy them that those proposals complied with the GPDO. However, I have reached a different conclusion in respect of the information and proposal before me. I have considered the proposal on its own merits, regardless of how the Council and its neighbouring authority has handled other similar applications.

Conclusion

16. For the reasons given above, and taking into account all other matters raised, the appeal is dismissed.

O Marigold

INSPECTOR

⁴ Reference ID: 13-028-20140306

⁵ APP/J1860/W/22/3300751

⁶ APP/J1860/W/22/3303381

⁷ APP/J1860/W/22/3294191

⁸ APP/J1860/W/22/3290129