



Appeal Decision

Site visit made on 3 October 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Appeal Ref: APP/Y3940/W/23/3320783

Land at The Old Dairy, Upper Pavenhill, Purton SN5 4DQ

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr John Mackinnon against the decision of Wiltshire Council.
 - The application Ref PL/2022/05678, dated 27 July 2022, was refused by notice dated 24 October 2022.
 - The development proposed is the conversion of existing agricultural building into a dwelling house.
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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 agricultural building into a dwelling house at Land at The Old Dairy, Upper Pavenhill, Purton SN5 4DQ in accordance with the terms of the application, Ref PL/2022/05678, dated 27 July 2022, and the details submitted with it.

Preliminary Matter

2. I have used the description of development from the decision notice as this more clearly describes the proposal. However, I have omitted the words '*notification for prior approval under Class Q for the*' in the banner heading and decision notice above, as these do not refer to an act of development.

Main Issues

3. Schedule 2, Part 3, Class Q(b) of the GPDO sets out that development is classed as permitted development if it consists 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 (dwellinghouses) of the Schedule to the Use Classes Order; and building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouse) of that Schedule.
4. A determination first needs to be made as to whether the proposal constitutes permitted development in accordance with Q.1.(a) to (m). The Council essentially contends that the development is not permitted development under paragraph Q.1(i) on the basis the proposed building operations would exceed what is considered to be reasonably necessary for a conversion.
5. In the event development is permitted, paragraph Q.2 sets out a number of conditions. Condition Q.2.(1) requires that the developer must apply to the

local planning authority for a determination as to whether the prior approval of the authority will be required as to matters set out in sub-sections (a) to (g). There is no dispute between the parties that the proposal meets matters relating to (a) transport and highways impacts, (b) noise, (c) contamination risks, (d) flooding risks, (e) whether the location is impractical or undesirable, or (g) adequate natural light. However, whilst not a reason for refusal, the main parties have referred to paragraph Q.2.(1)(f) and the suitability of the design or external appearance of the building.

6. Against that backdrop, the main issues are:

- Whether the proposal would be permitted development for the purposes of the GPDO having regard to whether the building operations would be reasonably necessary to convert the agricultural building into a dwellinghouse, to comply with paragraph Q.1(i) of the GPDO; and,
- If found to be permitted development, whether prior approval is required with regard to the design or external appearance of the building so as to comply with paragraph Q.2.(1)(f) of the GPDO.

Reasons

Whether the building operations are reasonably necessary

7. Some building operations are allowed as part of a Class Q conversion, but paragraphs Q.1(i) place restrictions on what can be undertaken. Permitted works can consist of the installation or replacement of (aa) windows, doors, roofs or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out these building operations.
8. A prior approval application is not subject to the same rigours as a planning application. The Planning Practice Guidance (PPG) provides further clarification about the scope of permitted building operations. The permitted right assumes that the existing agricultural building is capable of functioning as a dwelling and, hence, permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. It goes on to state that it is not the intention of the GPDO 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 right.
9. Of further assistance is the *Hibbitt*¹ High Court Judgement which addresses the extent of building operations allowed for a Class Q(b) application and whether they would amount to conversion or a re-build, which are conceptually different. *Hibbitt* was considering an open-sided building, which is not comparable to the appeal building before me. However, *Hibbitt* concluded that the building must be capable of conversion without complete or substantial re-building or, in effect, the creation of a new building. *Hibbitt* found that the extent of works themselves is not dispositive, but it is for the decision-maker to

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

assess the extent of the works and decide whether they fall within, or go beyond, the statutory limits with regards to a conversion or rebuild.

10. The appeal building is a steel portal-framed agricultural building with a dual pitched roof. One side is fully enclosed with corrugated fibre cement sheets above a concrete block wall and three sides are partially enclosed. A light weight low pitched roof, which would be removed, is attached to one side and joins another modern farm building to the south.
11. A Structural Appraisal (SA) and calculations were submitted with the application. The SA found the steel frame and blockwork walls in good condition. The cladding was found to show signs of age and the oversite concrete slab was in a satisfactory condition. The SA concludes that the building was in satisfactory condition. From my observations on site, which included going inside the building, I saw that it was partially enclosed with cladding intact. It appeared to be largely weathertight and to be in generally satisfactorily good condition inside and out.
12. The proposed external alterations to create a dwelling would involve the installation of glazing in the open central doorway on the east end gable with the cladding to the left-hand side extended down to ground level. Two of the corrugated panels would be replaced on the north elevation and windows would be added. The existing cladding on the west gable would be extended down to the block wall, with new windows installed and a section of glazing would be installed at the right-hand end.
13. Cladding on the south elevation would be retained and extended down to ground level, with new windows, doors and a glazed section to the left-hand side. Existing roof sheets that are damaged would be replaced. The existing walls and roof cladding would otherwise remain, as would the concrete floor and the structural frame. A majority of new windows would be installed along the existing block wall with the wall remaining intact and supporting the windows. The walls and roof of the building would be insulated internally.
14. The proposed works would not involve removing the external cladding or roof and exposing the metal structure, which was the case in *Hibbitt*, other than where the external cladding is cracked and would be repaired by cutting in a new section. In this case the appeal building has one side fully enclosed and roof intact, with three sides partially enclosed. The roof and wall cladding would remain, and this is demonstrated on submitted drawings. The GPDO permits the installation of doors, windows or walls and makes no distinction between structural and non-structural works. The submitted evidence demonstrates that the building is capable of conversion and that the proposed building operations do not amount to a re-build, but are works that are reasonably necessary for the building to function as a dwelling.
15. To conclude on this main issue, the building is suitable for conversion to residential use and the proposed building operations would be reasonably necessary to convert the building for it to function as a dwellinghouse. The appeal scheme would comply with the provisions of Class Q.1.(i) of the GPDO.

Design and external appearance

16. The building is located down a track off Upper Pavenhill. The site is surrounded by fields and vegetation. Views of it are limited in the wider countryside setting

due to the local topography, vegetation and its siting as part of a group of other modern farm buildings. The appeal building is of unremarkable and functional design, whose appearance is not uncommon with other buildings on farms and in the countryside.

17. The National Planning Policy Framework encourages high quality design and seeks to encourage design that will add to the overall quality of the area. The proposed works would introduce some changes to the external appearance of the building. This would undoubtedly affect its appearance and is reflected by the scope of building operations that are permitted by the GPDO and by the explanatory text of the PPG.
18. The proposals would not change the form or shape of the building. The changes are simple in design and concept. The majority of the external roof and wall cladding would be retained, and new materials would match those already used on the building. Whilst the existing materials are weathered in appearance, the appeal scheme would retain its largely unremarkable and functional appearance. It would not appear unduly incongruous or out of keeping with its rural and agricultural setting. I am satisfied on the basis of the evidence submitted that the conversion works would be high quality and there is little evidence to suggest that the building would not be fit for human habitation.
19. Consequently, with regard to this main issue, the design and external appearance of the proposal would be acceptable and would comply with paragraph Q.2.(1)(f) of the GPDO.

Other Matters

20. The purpose of Class Q of the GPDO is to increase the supply of housing through the conversion of agricultural buildings, which by definition will very frequently be in the open countryside. Accordingly, the location of the development and its sustainability are not grounds in this instance to dismiss the appeal.

Conditions

21. Paragraph Q.2(3) stipulates that development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. Paragraph W(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval.
22. I have had regard to the Highways Department suggestion that conditions be applied to require details for parking and turning of vehicles are provided as well as a Construction Method Statement. However, there would be ample space around the building for parking and turning. Moreover, I noticed during my site visit that the access to the site is via a cul-de-sac and a long private drive. As such, there would be unlikely to be an unacceptable impact on highway safety by virtue of cars parking or turning on the public highway. Consequently, it would not be necessary to condition details of parking and turning.
23. For similar reasons and having regard to the limited scale of the proposal, even though Upper Pavenhill is a single width road and provides access to residential properties, a condition requiring a Construction Method Statement would not be reasonable or necessary.

24. Environmental Control and Protection suggested a condition to restrict the permitted hours of construction or demolition. However, having regard to the limited scale of the appeal scheme and its relationship with residential neighbours, such a condition would not be necessary.
25. Whilst Environmental Control and Protection have suggested a condition regarding potential for contaminated land, the Council's Case Officer's Report states that there is no evidence the building has been used for any purposes other than hay storage. Given the existence of feed barriers along one side of the building it is also likely that the building has been used for livestock. Nonetheless, there is little substantive evidence of contamination issues. Consequently, the suggested condition would not be reasonable or necessary.
26. The Council have suggested no conditions over and above those laid out under Class Q. As such, I find no need to impose any additional conditions.

Conclusion

27. For the above reasons, I find no grounds to refuse prior approval. Therefore, I conclude the appeal should be allowed.

J White

INSPECTOR