

Appeal Decision

Site visit made on 24 October 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2023

Appeal Ref: APP/D3125/W/23/3315798

Fir Tree Farm, Main Road, Barnard Gate, Witney OX29 6XE

- 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 Kirk against the decision of West Oxfordshire District Council.
- The application Ref 22/03172/PN56, dated 15 November 2022, was refused by notice dated 10 January 2023.
- The development proposed is the conversion of an agricultural barn to a dwellinghouse.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form did not contain a description of the proposed development, I have therefore used the description on the Council's decision notice, which is also used on the appeal form.
3. Amended plans were submitted as part of the appeal¹. These show the existing materials to the walls and roof of the building to be re-used as opposed to being replaced with different materials, as shown on the drawings submitted as part of the application, as well as a revised door design to delete the glazing panels to either side.
4. The Procedural Guide: Planning appeals – England is clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the Council and interested parties at the application stage. I acknowledge the appellant's assertion that the amendments are submitted in the interests of completeness and serve to clarify the technical evidence submitted as part of the application. Nevertheless, the amended plans make fundamental changes to the proposal, and I cannot be certain that no parties would be prejudiced were I to take the amendments into account. In these circumstances, I do not consider it appropriate to accept these plans and I have therefore determined the appeal based on the plans submitted in support of the application and upon which the Council's decision was made. I have had regard to the degree of engagement for all parties in coming to this view.
5. There have been two recent appeals² which were dismissed, for a similar development to that currently proposed. I have taken the previous Inspectors'

¹ Proposed Elevations dwg no. 09 Rev. I and Proposed Ground Floor Plan dwg no. 06 Rev. D

² APP/Z4718/W/15/3012823 and APP/D3125/W/22/3291159.

findings into account, nonetheless I have reached my own decision based on the circumstances of the present case and evidence before me.

Background and Main Issue

6. The appeal proposes the change of use of an agricultural building to a dwelling under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). This 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 (dwellinghouses). Paragraph Q.(b) states that the building operations reasonably necessary to convert the building to a dwellinghouse use would be permitted development. Whilst Paragraph Q.1 outlines the circumstances where development would not be permitted by Class Q.
7. The parties disagree as to whether the proposed development would satisfy the requirements of paragraphs Q(b) and Q.1(i); and Q.1(h). Paragraph Q.1(i) indicates that development is not permitted by Class Q(b) 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 such works. Paragraph Q.1(h) indicates that development is not permitted by Class Q if the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.
8. Therefore, the main issue is whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO, with regard to the provisions and limitations of paragraphs Q.1(i) and Q.1(h).

Reasons

Schedule 2 Part 3 Class Q(b) and Q1(i)

9. Further to the requirements of paragraphs Q(b) and Q.1(i) in relation to works reasonably necessary for the building to function as a dwellinghouse, the Planning Practice Guidance (PPG)³ advises 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. It goes on to say that only where the existing building is already suitable for conversion to residential use does it benefit from the Class Q permitted development right.
10. The judgement in *Hibbitt v SSCLG [2016] EWHC 2853*⁴ held that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the structure, in effect, the creation of a new building. This is a matter of fact and degree and requires an element of planning judgement.
11. The appeal building is a conventional steel framed structure with metal panelling to the walls and polyfibre cladding to the roof, sitting on a concrete slab. It benefits from large doors to each side elevation as well as a smaller

³ Paragraph: 105 Reference ID: 13-105-20180615

⁴ *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin).

pedestrian door. The proposal seeks to convert the building for use as a dwellinghouse, with associated building operations.

12. The appellant's Structural Inspection Report Reference Number: 1263 dated 06.10.2022 indicates that the existing steel frames are to be retained to provide the external envelope of the building along with the existing roof and wall cladding. It concludes that the barn would require minimal alterations to its existing superstructure to enable its conversion to a dwelling. However, this does not reflect the submitted drawings, which show both the metal panelling to the walls and polyfibre roof to be replaced with cement fibre to the exterior of the walls and roof of the building.
13. Moreover, the drawings show the proposal would comprise a significant reduction in the overall height of the building, which indicates that the existing steel frames would not be retained, at least in their current form, given the resulting alterations to the profile of the building.
14. The PPG indicates that internal works are not generally development and that for the building to function as a dwelling it may be appropriate to undertake internal structural works, which are not prohibited by Class Q. Nonetheless, in addition to the proposed internal walls, the submitted plans⁵ show the external fabric of the building would be replaced in its entirety, including the provision of a new roof and external walls to the building. Moreover, whilst I note the appellant's assertion that the steel frames are to be retained, the evidence before me suggests that they would be substantially altered, if not replaced, given the reduction in eaves and ridge height of the building. Consequently, only the concrete slab would be retained in its original form. The building would therefore require significant works to facilitate its conversion to a dwelling.
15. For the foregoing reasons, having regard to the extent of new material proposed to the walls and roof, as well as the alterations to the frame of the building, I consider that the proposed works to form a dwelling overall would be so extensive that they would be more akin to a rebuild than a conversion of the existing building.
16. The appellant has drawn my attention to an appeal decision at Alfrick⁶. However, from the decision it appears the building in that case was of an appreciably different form and construction to that of the appeal building and that the proposal would utilise significant elements of the original building, including its corrugated roof, concrete wall panels and hit and miss timber boarding. This example is therefore materially different to the appeal scheme and does not lead me to a different conclusion.
17. My attention is also drawn by the appellant to planning permission granted recently by the Council for the conversion of a barn to two dwellings⁷. I do not have full details in respect of such works so I cannot be sure of the circumstances of the case, furthermore, given that the proposal was not for prior approval under Class Q, it is not comparable to the appeal scheme. In any case, I have determined the appeal on its own merits, based on the evidence before me.

⁵ Proposed Elevations drawing no. 09 Rev. H

⁶ APP/J1860/W/22/3303381

⁷ Ref. 21/02065/OUT

18. I therefore conclude that the extent of the building operations proposed would not be reasonably necessary to convert the building to a dwellinghouse. The proposal would therefore not comply with the relevant limitations and restrictions and would not constitute permitted development under Schedule 2, Part 3, Class Q(b) and Class Q(i) of the GPDO.

Schedule 2 Part 3 Class Q(h)

19. The application drawings⁸ indicate that the eaves of the proposed roof would project beyond the limits of the external walls of the existing building. In that regard the proposal would fail to constitute permitted development under Schedule 2 Part 3 Class Q(h) of the GPDO.

Other Matters

20. I note the appellant's comments regarding the Council's actions in the determination of the application, and those that have been considered previously. However, this is beyond the scope of the appeal, which I must determine on the basis of the information before me.

Conclusion

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

E Worley

INSPECTOR

⁸ Proposed Elevations drawing no. 09 Rev. H