



Appeal Decision

Site visit made on 20 December 2023

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 January 2024

Appeal Ref: APP/Y3940/W/23/3323999

Berrybrook Farm, Street Lane, Sedgehill, Wiltshire SP7 9JQ

- 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 Peter Harding of HFH Investments Ltd against the decision of Wiltshire Council.
 - The application Ref PL/2023/02313, dated 21 March 2023, was refused by notice dated 15 May 2023.
 - The development proposed is a change of use of agricultural barn (barn F) to a dwellinghouse (Use Class C3) and for associated operational development.
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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 (the GPDO) for proposed change of use of agricultural barn (barn F) to a dwellinghouse (Use Class C3) and for associated operational development, at Berrybrook Farm, Street Lane, Sedgehill, Wiltshire SP7 9JQ in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2 (1) of the GPDO, Ref PL/2023/02313, dated 21 March 2023, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: DWG No 40 Site Location Plan and Block Plan Dated 02.12.22; DWG No 42 Proposed Site Plan Dated 06.12.22; DWG No 43 Rev G Proposed Elevations, Section, Floor and Roof Plan Dated 02.12.22.
 - 2) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.
 - 3) The development hereby permitted shall not be occupied until the access, turning areas and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall always be maintained for these purposes thereafter.

Preliminary Matters

2. I have used the description of the proposal as set out in the Council's Decision Notice, which is more concise than that used in the application form. The appellant has used this revised description in the appeal form and so I am satisfied that no party would be prejudiced by my using this description. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. I have sought comments from the main parties on this change and have determined the appeal accordingly.

Background and Main Issues

3. The appeal site consists of a complex of farm buildings at Berrybrook Farm around the Grade II listed Berrybrook Farmhouse. Several existing buildings have permission for non-agricultural uses, and the appeal relates to an existing building, known as Barn F. It is common ground that this building is not curtilage listed. Class Q of the 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.
4. The proposal is for both a change of use and the building operations involved. Whether the works involved would go beyond a conversion, and so fall outside of the scope of the GPDO, is a matter of dispute. In addition, such a change of use is only permitted by the GPDO under Schedule 2, Part 3, Class Q where it complies with the conditions set out at section Q2(1). One of these conditions is that the developer must apply to the Local Planning Authority to consider whether its prior approval will be required in respect of the design or external appearance of the building. Whether this should be granted is also a matter of dispute.
5. Accordingly, the main issues are:
 - 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 for residential use, and
 - the effect of the design and external appearance of the proposal.

Reasons

Compliance with the GPDO

6. The GPDO permits the conversion of existing buildings, including where they would involve building operations. These can include 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.
7. However, the High Court decision of *Hibbitt*¹ clarifies the extent of these rights, including that the buildings must be capable of conversion to residential use without operations amounting to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. The Planning

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

Practice Guidance² (PPG) also makes clear that the GPDO does not intend to allow re-building work beyond that necessary for conversion. Only where the existing building is already suitable for conversion to residential use would the building have the permitted development right.

8. The building has been designed for agricultural purposes. The structural works proposed to achieve conversion include the creation of new window openings, the replacement of the existing roof covering and of cladding on its elevations. It would also involve the infilling of various sections of the existing blockwork, painting and the insertion of internal walls and a new ceiling.
9. Even so, much of the existing building would be retained. This would include elements such as the frame and the roof structure. Moreover, substantial parts of the existing external walls would be kept, with only limited blockwork infilling and a number of new openings. Consequently, the barn is capable of conversion to residential use without operations that would amount to substantial re-building of the structure or works that would go beyond those reasonably necessary to convert it to a dwellinghouse.
10. My attention has been drawn to appeal decisions where prior approval has not been granted because of the extent of alterations. These include those at Mere³ and Clyffe Pypard⁴. However, the barn at Mere was described as quite skeletal in form, whilst that at Clyffe Pypard included the enclosure of a large open section. As such, these and other examples cited required significant amounts of rebuilding. Consequently, in light of my findings above, they are not directly comparable to the proposal and so do not lead me to reach a different conclusion on this issue.
11. I conclude that the barn is capable of functioning as a dwelling without significant re-building and so the proposal meets the requirements of the PPG. As such, it would comply with the description of permitted development under Schedule 2, Part 3, Class Q of the GPDO, with regard to the building operations necessary for residential use.

Design and External Appearance

12. The revised Framework seeks the creation of high-quality, beautiful buildings and states that development which is not well designed should be refused. The GPDO makes clear that the Framework is relevant when considering matters on which prior approval is sought. However, as advised by the PPG, prior approval is a light touch process, where the principle of the development has already been established.
13. GPDO Class Q applies to all types of agricultural building, regardless of their design. Barn F was not built with the intention of domestic use, and it has something of a functional scale and design. Public views of the barn are obtainable from the adjacent lane including in association with Berrybrook Farmhouse. Nevertheless, the building already exists, and is likely to remain so regardless of the outcome of this appeal.
14. Furthermore, the appeal building has a low profile and is located centrally within a grouping of other buildings. As proposed, it would continue to have the

² Paragraph 105 Reference ID 13-105-20180615

³ PINS reference APP/Y3940/W/23/3319335

⁴ PINS reference APP/Y3940/W/19/3241533

appearance of one of a cluster of (former) agricultural buildings, albeit one converted to residential use. The alterations and finishes proposed would be sensitive to its form and integrity. Whilst the proposal may result in a degree of additional artificial light being emitted into the dark sky at night, the effects of this would be small, because of the limited number of openings.

15. For these reasons, the proposal would not appear particularly jarring, contrived or out of place in its context, including when viewed in conjunction with Berrybrook Farmhouse and its setting, and in the surrounding Special Landscape Area. Instead, it would represent a well-designed, good quality form of development that would accord with the Framework, as well as the Government's National Design Guide. I therefore conclude that the effect of the design and external appearance of the proposal would be acceptable.

Other Matters

16. Sedgehill House and its surrounding land adjoin the appeal site. The proposal may generate a degree of additional noise and disturbance, including from the comings and goings of future occupiers. However, as a single dwelling, I have little reason to believe that its effects would be particularly great or unusual. Sedgehill House itself is some distance from Barn F and there are other buildings, land and boundary treatments between them, further limiting the effects of noise. Given these factors, I do not consider that the noise impacts of the proposal would be unduly excessive or harmful.
17. The proposed bedrooms would be concentrated at one end of the building, relatively close to the farmyard. However, the Council identifies that ongoing agricultural use of the yard is at a relatively low level, as would be the vehicular movements associated with other uses of the barns. As such, the siting and location of the proposal would not be impractical or undesirable. The barn is wide, but each habitable room would be served by at least one window. Accordingly, adequate natural light would be available to future occupiers of the proposal.

Conditions

18. Paragraph W(13) of the GDPO allows for the grant of prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. In the interests of certainty, I have imposed a condition requiring that development takes place in accordance with the approved plans. The Council has suggested a condition requiring remediation if unexpected contamination is found. Given the previous use of the building, I consider that such a condition is necessary to ensure no unacceptable risks to workers, neighbours or other offsite receptors. However, I have amended the Council's wording to reflect the advice in the PPG.
19. Improvements to access and highway safety in respect of surfacing and entrance gates are already shown on the submitted plans. However, in the interests of highway safety, a condition is required to ensure these works are carried out before the proposal is occupied. Given the existence of the building and access, I see little reason to believe that the proposal would worsen surface water egress onto the highway. Therefore, the suggested conditions in respect of these matters are unnecessary.

Conclusion

20. For the reasons given above, the appeal is allowed and prior approval granted.

O Marigold

INSPECTOR