



Appeal Decision

Site visit made on 9 January 2024

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 15 January 2024

Appeal Ref: APP/J1860/W/23/3325499

Ripple Farm, School Lane, Ripple, Worcestershire, GL20 6EU

- 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 (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr and Mrs S Watkins against the decision of Malvern Hills District Council.
 - The application Ref M/22/01735/GPDQ, dated 24 November 2022, was refused by notice dated 18 January 2023.
 - The development proposed is notification for prior approval for change of use of agricultural building into five dwellinghouses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading I have used the description of development from the Decision Notice as this more accurately and succinctly describes the proposal.
3. 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 GPDO) planning permission is granted for the change of use of an agricultural building and any land within its curtilage to a use within Class 3 dwelling houses together with building operations reasonably necessary to convert the building (permitted development).
4. Section 55(2)(a) of the Act applies to works of 'maintenance, improvement or other alteration which affect only the interior...or do not materially affect the external appearance of the building'. However, case law indicates that there is a difference between 'maintenance' and rebuilding. Under Class Q.1 (i)(i) 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.
5. This is subject to conditions and limitations including the requirement to apply to the local planning authority for determination as to whether the prior approval of the authority will be required in respect of specified matters. A prior approval application can be refused where the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposal complies with, the

relevant conditions, limitations or restrictions. The Planning Policy Guidance (the PPG) provides interpretation of the GPDO.

Main Issues

6. The main issues are whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO; and if so, whether prior approval should be granted for the proposed development.

Reasons

7. The Hibbitt judgement and the PPG confirm that works that would be so fundamental as to effectively result in a rebuilding or fresh build are not permitted. 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: 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. Whether proposals comprise conversion rather than rebuild or fresh build require a judgement of the facts and degree of the case.
8. The appeal site includes a large building, hard standing in front of it and strips of land to either side. The Council considers the building to be in agricultural use as required by Class Q. The barn was between a third and a half full of grain at the time of my visit and I see no compelling reason to reach a different conclusion. However, the Council considers that the degree of building works and new materials would go beyond that considered to be reasonably necessary and therefore would not be permitted by Class Q.
9. The building is fully enclosed and comprises a steel portal frame with a concrete floor slab, and corrugated asbestos cement wall sheets. Internally there is a blockwork perimeter wall some 900mm high with approximately 2m to 2.5m high steel walling above. The pitched roof has corrugated fibre cement sheets which were installed in the last 10-15 years. There is a double-height roller shutter door on the western gable elevation and a number of rooflights.
10. An inspection limited only to what was visible and assessable at the time of the inspection informed the Structural Report Rev A (SR Rev A). This concludes the visible parts of the main steel frame are in reasonable condition and there is relatively little visible corrosion. It seems likely that the existing above ground frame is capable of resisting loads expected during the lifespan of the building once converted using light weight modern materials. The Council does not dispute this but a third party has raised a number of material considerations in relation to the evidence.
11. The SR Rev A considers there is no reason to presume the barn is structurally inadequate for the proposed conversion given the barn exhibits no signs of undesirable deflection or settlement related to undersized or sub strength foundations or pads and states the ground slab was concrete throughout. However, as stated in the SR Rev A, the presence of grain prevented access to assess side bracing during the visual inspection in November 2021. This would also have precluded an assessment of the condition of the full extent of the floor. Similarly, I was unable to observe much of the floor due to the amount of grain in the barn at the time of my visit. Sufficient uncertainty arises given the

apparent differential settling of floor slabs and cracking depicted in the third-party photograph H.

12. It is also not clear whether the floor slab would need to be extended from the rear face of the blockwork wall to the outside face of retained asbestos sheets, or how this would be achieved. No investigations have taken place to establish the condition of the foundations around the perimeter or underneath the stanchions particularly where these may have been water-logged for significant periods.
13. The SR Rev A refers to conversion to a single dwelling rather than the specific proposal for five dwellings. In particular the large, tall, numerous new openings over two floors would seem to be likely to result in the loss of much of the existing blockwork wall, significant parts of the steel grain walling and parts of the steel frame as well as asbestos sheets. It is also not clear whether the full weight of the glazed openings has been fully factored in. The need for further assessment of the specific construction at Building Regulations stage, indicated in the first Structural Report, is omitted from SR Rev A without further explanation.
14. The SR Rev A also states there is no asbestos in the cladding. However, the Certificate of Analysis for Asbestos Identification (the CAAI) indicates Chrysotile in the cladding sheets. The intention is to retain as much of the asbestos sheets as possible. Whilst intact asbestos sheets pose relatively little risk damaged asbestos can release smaller fibres that can be breathed in or swallowed with a potential for health problems. Irrespective of whether it is appropriate to retain intact asbestos sheets for dwellings broken sheets should not be retained.
15. The CAAI concludes the sheets are in good condition. However, some are broken/cracked with some surface deterioration and the remains of clinging plant growth on part of the elevations may cause surface damage when cleaned off. The plan Ref J007515 D 10 shows the asbestos sheets to be retained, but is at a relatively small scale and seems to me to be too simplistic a representation. For example, some of the sheets do not have a uniform joint line; the ground floor openings appear to be depicted below the existing floor slab level rather than above the proposed new floor, which would be some 230mm higher than the existing floor to achieve thermal insulation, and little account has been taken of other existing small openings and there is likely to be a need for other openings to accommodate services and facilities such as extractor fans and pipes. Nor is it clear how lower sheets could be removed without damaging upper ones.
16. Each of the technical reports addresses aspects of the condition of the barn. However, there is no comprehensive drawing together of the information or applying it directly to the specific proposal before me. For example, the appellant could have provided a more detailed survey of the condition of the asbestos sheets together with cross sections through the existing sheets and main frame showing clearly how doors, windows, floors, extractor fans, ventilation, down pipes and services could be accommodated without the need for more extensive removal of, or damage to, the sheets or interference with the steel frame and the blockwork wall. Without such information I cannot confidently conclude that the majority of the fabric of the building would be retained.

17. There would also be a need to install thermal insulation to all the floors, walls and roof; install walls between the dwellings, as well as provide internal walls, floors and services.
18. I acknowledge the provisions of Class Q.1 (i)(i) and that internal works may not amount to development. I also note that timber studwork would be used as a lightweight alternative to blockwork. However, on the basis of the available evidence I cannot confidently conclude that the total extent of works likely to be required would not go well beyond what might sensibly or reasonably be described as a conversion. In the absence of evidence to demonstrate otherwise it seems likely to me that the development would in all practical terms amount to fresh build, with only a modest amount of help from the original agricultural building.
19. The Supplementary Planning Statement November 2022 explains that units one and two would have floor areas of 298m² and 160m² respectively; the remaining three units would each have floor space of 100m². On this basis the Council accepts the units comply with the size restrictions in Paragraphs Q.1(b) and Q.1(c) of the GPDO. However, this appears to be contradicted by the floor plan which does not separately annotate floorspace for each unit, as required under Class W.2(b), but which clearly states that three of the units would have "*dimensions as per unit 2*". Whilst that may not have been the intention it is for the appellant to accurately describe the development. In view of the inconsistencies, I cannot confidently conclude that the proposal would meet the requirements of Paragraphs Q.1(b), Q.1(c) or Class W.2(b) in terms of the numbers and sizes of dwelling houses permitted under Class Q.
20. For the reasons set out above I conclude there is insufficient information to confidently conclude that the proposed works would not be more than reasonably necessary for the building to function as dwellinghouses. There is also insufficient surety that the proposal would meet the requirements of Paragraphs Q.1(b), Q.1(c) or Class W.2(b). For the above reasons I cannot conclude the proposal would be permitted development under Class Q. It is therefore not necessary or appropriate for me to consider whether prior approval should have been granted.

Other Matters

21. The appellant has referred to a number of other cases where conversion of agricultural buildings has been accepted. From the information available it appears there was not the same degree of uncertainty regarding the evidence in relation to the building works required or the floor space of the proposed dwellings. Accordingly, these examples do not lead me to any different conclusion in respect of the appeal before me.

Conclusion

22. For the reasons set out above and taking into account all other relevant matters raised I conclude that the appeal should be dismissed.

S Harley

INSPECTOR