



Appeal Decision

Site visit made on 5 January 2024

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 February 2024

Appeal Ref: APP/P1615/W/23/3322509

Lower House Farm, Blue Lane, Kilcot, Gloucestershire GL18 1NG

- 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 & Mrs and Mr B, S and L Sawyer & Goulding against the decision of Forest of Dean District Council.
 - The application Ref P0144/23/PQ3PA, dated 27 January 2023, was refused by notice dated 5 April 2023.
 - The development proposed is Change of use and conversion of an existing agricultural building to two (large) residential dwellings (C3) under the provisions of Class Q of the General Permitted Development Order.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal proposal relates to a prior approval notification made under Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015, (as amended) (the GPDO). Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issue

3. The main issue is whether the proposal would be permitted under, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
4. In particular, it is necessary to consider the following criteria of Class Q:
 - Whether the required building operations are to the extent reasonably necessary to carry out the conversion of the building (Q.1(i); and
 - Whether the location or siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (Q.2(1)(e)).
5. There is no dispute between the main parties that the other criteria of Class Q are satisfied, while I have no reason to conclude otherwise. Consequently, there is no need to give them further consideration in this decision.

Reasons

Building Operations

6. Class Q(a) of the GPDO permits the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within the C3 (dwellinghouses) use class. Class Q(b) of the GPDO permits building operations reasonably necessary to convert the building.
7. The appeal building is a modern steel portal framed structure comprising four bays, formed by five duo-pitched portal frames. The building's gable end walls are formed of profiled steel sheeting, whilst its flank elevations comprise of Yorkshire boarding above a blockwork plinth wall. Its roof is formed of profiled cementitious sheet. A mono-pitch, lean-to steel structure adjoins the eastern flank of the building.
8. Various works would be required to enable the conversion of the appeal building to dwellings. This includes the installation of windows and doors, and new timber cladding to infill existing gaps. To facilitate the development, it is also proposed to remove the existing mono-pitch, lean-to structure from the eastern flank elevation of the building.
9. The GDPO states that development under Class Q(b) is not permitted if it would consist of building operations other than Q.1(i)(i) 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 dwelling house. Paragraph Q.1(ii) meanwhile also allows for partial demolition to the extent reasonably necessary to carry out such building operations allowed by paragraph Q.1(i)(i).
10. The Planning Practice Guidance (PPG) advises that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, the PPG is clear that it is not the intention of the permitted development right to allow rebuilding work that would go beyond what is reasonably necessary for the conversion of the building to a residential use. As such, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to benefit from the permitted development rights.
11. Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement based on fact and degree of an individual case. The Hibbitt judgement¹, however, establishes that building operations undertaken pursuant to Class Q should fall short of rebuilding and not involve construction of new structural elements.
12. Having regard to the submitted structural report (undertaken by a suitable qualified professional), the Council has not raised concern with the extent of building operations proposed or whether the building is structurally capable of conversion. From the evidence before me, I have no reason to conclude otherwise.
13. The Council's case is instead predicated on the fact that the demolition works to remove the existing lean-to would require permission under Part 11 of the GPDO. It therefore suggests that the works go beyond what is reasonably

¹ Hibbitt v SSCLG & Rushcliffe BC [2016] EWHC 2853 (Admin)

necessary for the conversion of the building. However, I am not convinced that this is the case, given that Part 11 Class B of the GPDO relates to the demolition of an entire building and not partial demolition, whilst Part 11 Class C relates to the demolition of gates, fences, walls etc.

14. The appellant's structural engineer has further confirmed that the lean-to element proposed to be removed, although not structurally independent, does not affect the structural stability of the main building. Instead, the lean-to relies on the structural stability of the main portal frame element of the building for its own stability. From the available evidence and my observation on site, I have no reason to doubt this.
15. I appreciate that the lean-to is of a sizeable height and footprint. Nonetheless, it remains open to each side, except where enclosed by the flank wall of the main part of the building (that is not to be demolished). Consequently, the part demolition will essentially involve removal of a skeletal construction of steel members and associated corrugated roof covering. In addition to the demolition not affecting the structural integrity of the main building component, it appears that it would be necessary to remove the lean-to to enable some of the proposed works to the eastern elevation of the appeal scheme. In my view the proposed demolition would therefore fall within the scope of Paragraph Q.1.(ii).
16. For the above reasons, I conclude that the extent of the proposed structural works to the building do not go beyond those permitted under Class Q1(i).

Whether the location or siting of the building is impractical or undesirable

17. The appeal building is located at Lower House Farm, an active farm. It is largely surrounded by agricultural fields, which livestock are regularly rotated between. The building proposed for conversion is situated on a farmyard, adjacent to an existing dwelling and also in very close proximity to a cluster of further farm buildings.
18. Under Q.2(1)(e), it is necessary to consider whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use. This can cover matters such as the living conditions of future occupiers of the proposal.
19. 'Impractical' or 'undesirable' are not defined in the regulations. However, the Planning Practice Guidance (PPG) identifies that their reasonable ordinary meaning should be applied in making any judgement. Namely, that impractical reflects that the location or siting would not be 'sensible or realistic', and undesirable reflects that it would be 'harmful or objectionable'.
20. In respect of noise, the appellant has had a noise assessment prepared by a suitably qualified consultant. The assessment was undertaken over a week-long period in December 2022. Notably, due to inclement weather during the survey period, cattle were being fed nearer to the proposed development site and noise monitors than they would ordinarily be. Despite this, the noise assessment found that average noise levels at the site were sufficiently low, such that it would pose a 'negligible' noise risk for the proposed development. Additionally, design measures, such as, the specification of glazing and trickle ventilators and the inclusion of double aspect bedrooms have been incorporated into the proposed dwellings' design. This is to enable appropriate

internal noise levels to be achieved, whilst also providing residents the option to still open windows where necessary. Overall, whilst agricultural activity would be audible on the site, the noise assessment found that it remained acoustically suitable for residential use. The noise assessment has been reviewed by the Council's environmental health team, who have raised no objections with its findings, whilst I also have no reason to dispute the findings.

21. That being said, the noise assessment was based upon the activities of the farm during a single week period. I appreciate that this may still be representative of the general practices of the farm and provide a realistic understanding of the site's current noise environment. I also recognise that there may be little seasonal variations in noise conditions at the site. Nevertheless, I share the Council's concerns that activities in the adjacent agricultural buildings cannot necessarily be controlled and therefore may change in future, including potentially being used for the housing of livestock.
22. Whilst the appellant has indicated that the nearby buildings are not suitable for housing livestock there is no robust evidence before me to verify this. I am also mindful that future improvements to the nearby buildings could be made and not necessarily require planning permission.
23. Additionally, although it appeared that the majority of the nearby buildings were used for storage of agricultural paraphernalia or machinery, I observed cattle being kept in a shed close by². I understand that this is a cattle shed that is used to house cattle in exceptional weather conditions or when they are due to calve in cold weather conditions. Again, however, I cannot be sure that the building would continue to be used in this temporary manner in the future.
24. Given their very close proximity, should the adjacent farm buildings become used for housing of livestock on a more permanent basis, or more intense agricultural processes, there is a real risk that it could cause significant harm to the living conditions of future residents of the proposed development with regards to noise and disturbance. Thereby, making the siting of the proposed dwellings both impractical and undesirable.
25. As these nearby buildings are not within the appeal site's redline boundary, it would not be possible to attach a condition restricting their future use. Whilst no other appropriate mechanism is before me to control the future use of the buildings.
26. The Council has also raised concerns regarding odour. However, based upon the response of the Council's environmental health officer to a previous application for prior approval at the site, and my own observations, I am less concerned by this aspect.
27. Nonetheless, for the reasons given above, I find that the location or siting of the proposed dwellings would be impractical and undesirable for residential use permitted under Class Q. Accordingly, the proposal conflicts with provision (e) of Schedule 2, Part 3, Class Q.2 (1) of the GDPO.
28. In coming to the above view, I am mindful that the proposed dwellings would be located approximately 10m from an existing dwellinghouse and therefore would experience similar living conditions as existing residents. However, it is

² Within the overwintering cattle shed as identified in Figure AS12881/SP2 of the Noise Impact Assessment (December 2022) prepared by Clarke Saunders Acoustics.

unclear as to whether the residents of the existing dwelling are (or have been) involved in the active management of the farm, in which case, they would be likely to have greater tolerance or be more accepting of the effects of the running of the farm on their living conditions.

Other Matters

29. I note the appellant's frustrations with the way the Council dealt with the original application, as well as other, prior approval applications at the site. However, the appeal scheme has been determined on its own merits.
30. The appellant has provided details of several other applications whereby prior approval under Class Q of the GDPO has been approved and the proposed dwellings would be located within a working farmyard. I do not have the background context of these cases, including whether the nature of the sites were directly comparable to that before me. For example, the scale and nature of farm activities, including the precise relationship between agricultural buildings and the proposed residential developments, or indeed whether there were any suitable controls on the use of buildings at these farms. As such, my decision does not turn on these other examples.

Conclusion

31. For the reasons given above, the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is therefore dismissed.

Lewis Condé

INSPECTOR