



Appeal Decision

Site visit made on 6 February 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2024

Appeal Ref: APP/M1005/W/23/3329983

Land at Gorses, Belper Lane End, Belper, Derbyshire

- 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 Latham Russell against the decision of Amber Valley Borough Council.
 - The application Ref PDR/2023/0036, dated 1 August 2023, was refused by notice dated 24 August 2023.
 - The development proposed is described as prior notification for the conversion of an agricultural building to one 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(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) for the conversion of an agricultural building to one dwellinghouse (Use Class C3) and for associated operational development at Land at Gorses, Belper Lane End, Belper, Derbyshire, in accordance with the terms of the application, Ref PDR/2023/0036, dated 1 August 2023.
2. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2(3) of the 2015 Order and subject to the following additional condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan, proposed site and roof plan drawing 23.4299.04B, proposed ground floor plan drawing 23.4299.06C and proposed elevations drawing 23.4299.05B.

Preliminary Matters

3. The description of development in the banner heading above is taken from the appellant's Supporting Statement¹ as referenced on the planning application form. The description of development appropriately describes the proposal and I have determined the appeal on that basis, albeit I have referred to prior approval, as opposed to prior notification, in my decision above.
4. A revised National Planning Policy Framework (the Framework) came into force on the 19 December 2023 with a further change published on 20 December. The paragraphs most pertinent to this appeal are unchanged, other than their

¹ KC Planning and Development Supporting Statement, dated August 2023

numbering. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Background and Main Issues

5. 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 Order), development is permitted for the 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) together with building operations reasonably necessary to convert that building, subject to limitations and conditions.
6. The Council may refuse the application where it considers that the proposed development does not comply with, or that the developer has provided insufficient information to enable the Council to establish whether the proposed development complies with, the conditions, limitations or restrictions set out in paragraphs Q.1 and Q.2.
7. The Council has refused the application in relation to the works which would be required to enable the building to function as a usable dwelling and the suitability of the appeal building for conversion and, consequently, its non-compliance with paragraph Q.1(i). The Council has not, therefore, considered the proposal against paragraphs Q.2(1) and W.
8. The main issues are, therefore, whether the proposed development would constitute permitted development in respect to Class Q and paragraph Q.1(i); and, if the proposal is found to constitute permitted development, whether prior approval would be required and should be granted.

Reasons

Whether permitted development

9. The appeal relates to a single storey agricultural building which comprises a group of five spaces formed around a central building with a mono-pitched roof, with single storey, lean-to additions to either side. It is clad in a variety of timber cladding, metal sheet cladding, and blockwork to the walls with metal sheet roofing. It has a concrete floor throughout. At the time of my visit the building contained some agricultural equipment but, from the evidence before me, was previously used for livestock and storage of crops.
10. The appellant's Structural Report² indicates that the existing structural form and the main load bearing elements of the building are suitable to be considered for the proposed conversion.
11. The submitted plans show that the existing blockwork, metal cladding, timber cladding and metal sheet roofing would be retained. Existing openings would be utilised to provide windows and doors, including glazing within existing large openings and the open sided section of the lowest part of the building. New window and door openings would also be inserted into the external elevations. All of these works would fall within Class Q.1(i)(i)(aa).
12. The Planning Practice Guidance (PPG) advises that Class Q assumes that the agricultural building is capable of functioning as a dwelling (Paragraph ref ID:

² ASP Inspection Report 7582 Rev A, dated 30 June 2023

13-105-20180615). The Council, albeit agreeing that the building is considered generally in good condition, has not provided any compelling evidence to counter the appellant's Structural Report or provided any detail of what building works it considers would be required to enable the building to function as a usable dwelling.

13. Although the PPG confirms that it is not the intention of Class Q to allow rebuilding work it does accept that works may be required that would alter the exterior of the building and these works can include replacement windows, doors, roofs, and walls, amongst other matters.
14. The works proposed would not include any significant new structural elements and the evidence before me confirms that the existing building is sufficiently structurally sound to bear the loading from the proposed works. The proposal would not include substantial elements of rebuilding or demolition, and, in that regard, I find that the circumstances in the Hibbett case are not directly comparable.
15. The retention and repair of the external walls, cladding and roofing materials and the insertion of new windows and doors would be reasonably necessary to make the building weatherproof and suitable for human habitation. Moreover, the works neither represent a fresh new build, nor rebuilding of the structure, and would be reasonably described as a conversion of the existing building.
16. Internal works would be required, to insulate the external walls, subdivide the spaces into habitable rooms and provide services and facilities within the dwellinghouse. However, the internal works would not be load-bearing and would not involve development, as confirmed by the PPG.
17. Based on the evidence provided, I am satisfied that the structural integrity of the building is sound and would form an integral part of the new dwelling. The building operations would be reasonably necessary in this instance and would not exceed the limitations set out in paragraph Q.1(i) of the Order. As such, this part of the proposal would constitute permitted development as set out under Schedule 2, Part 3, Class Q of the Order.

Whether prior approval is required and should be granted

18. The conditions set out in paragraph Q2(1)(a) to (g) relate to certain details of the proposed development, including transport and highways, noise, contamination, flooding, location or siting, design or external appearance, and the provision of adequate natural light. Given my findings above I have assessed the proposal against Q2 as required by the Order.
19. The site is served by an existing access and there would be parking and turning within the proposed site and I, therefore, have no reason to find that the development would not be suitable in terms of transport and highway matters. Based on the evidence before me, the proposed conversion would not result in unacceptable noise impacts, contamination risk or flooding risk. I also have no reason to find that the location or siting of the building makes it otherwise impractical or undesirable to change from agricultural to a dwellinghouse. Furthermore, the design and external appearance would respect the character and appearance of the existing building through the retention of the existing external materials and sensitive new openings. The proposal would also provide adequate natural light to all habitable rooms of the dwellinghouse.

20. Therefore, based on the information before me, including the appellant's other technical reports³, and my observations on site, the proposed conversion would not result in unacceptable adverse effects on any of the matters listed in Q2(1). I have had regard to the National Planning Policy Framework, but only insofar as it is relevant to the subject matters in Q2(1), in accordance with Part 3, Class W of the Order. For the above reasons, prior approval is granted for the development proposed.

Conditions

21. The Council has advised that it considers that the conditions as set out in Class Q of the Order would be appropriate. Any prior approval and planning permission granted for the development under Article 3(1) and Schedule 2, Part 3, Class Q of the Order is subject to the condition under Q.2(3) and the provisions of paragraph W. of Part 3 of the Order.
22. For the avoidance of doubt and to ensure certainty, I have also added a condition to require the development to be carried out in accordance with the plans submitted with the application.
23. The appellant has suggested other conditions relating to ecological mitigation, landscaping, and the position of the access gates. The ecological impact of the proposed conversion under Class Q is not one of the matters which I can consider under Q2(1) and, as such, a condition to require the mitigation proposed would not be reasonable. The future landscaping of the proposed single dwelling would be for the occupants of the property to provide, and, given the specific circumstances and the scale of development, I do not consider it is necessary to impose a condition to require the details to be submitted. As I have already imposed a condition to require compliance with the plans, I also do not consider it is necessary to require a separate condition to reposition the gate.

Conclusion

24. For the reasons given, I conclude that the appeal should be allowed, and prior approval is granted subject to conditions.

K Townend

INSPECTOR

³ BJ Collins, Preliminary Ecological Appraisal and PH11 Bat Survey, dated July 2023 & Edwards & Edwards Consultancy Ltd Accompanying Highways Report dated June 2023