



Appeal Decision

Site visit made on 10 April 2024

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2024

Appeal Ref: APP/A0665/W/23/3327457

The Hayloft, Marsh Lane, Lower Whitley, Cheshire WA4 4EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Miss Kate Bond against the decision of Cheshire West and Chester Council.
 - The application Ref is 23/01020/PDQ was refused on 12 June 2023.
 - The development proposed is described as the conversion of existing agricultural barn into 1 no. residential unit under GDPO 2015 Class Q.
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Decision

1. The appeal is allowed and prior approval is deemed to be 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) for the conversion of existing agricultural barn into 1 no. residential unit under GDPO 2015 Class Q, at The Hayloft, Marsh Lane, Lower Whitley, Cheshire WA4 4EU in accordance with the application Ref 23/01020/PDQ, subject to the following conditions:
 - (1) The development hereby permitted shall be completed within a period of 3 years starting with the date of this decision.
 - (2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing nos. PL-001, PL-002, PL-003, PL-004, and PL-006.

Preliminary Matters

2. There have been two previous applications for prior approval at the appeal site: Ref: 18/04607/PDQ, refused 1 February 2019 (the first application) and Ref: 22/04400/PDQ, refused 30 January 2023 (the second application). It was evident from my site visit that the appeal building has been subject to some alterations, including the installation of a first floor and insertion of new openings. The appellant contends that these operations, including creation of a first floor and additional openings were carried out to the appeal building following the determination of the first application, and before the submission of the second and are not related to the development for which prior approval is now being sought. I have made my decision on the basis of the plans and documents which relate to the proposal the subject of this appeal.

Background and Main Issue

3. Under Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) (the GDPO), development is permitted to change the use of agricultural buildings to dwellinghouses. Class Q (a) allows change from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Order and, Class Q (b) allows building operations in relation to such change of use to Class C3, which are reasonably necessary to convert the building to such use. The application form and plans indicate that approval in this appeal application is being sought under Class Q (a) and Class Q (b).
4. It is not in dispute that the proposed development satisfies Class Q (a), rather that it would not comply with the provisions under Class Q (b) in relation to building operations other than those permitted under Class Q.1 (i) (i) (aa) or (bb), to the extent they are reasonably necessary for the building to function as a dwellinghouse. The Council also contends that the proposed change of use under Class Q fails to satisfy all relevant conditions and limitations set out in Schedule 2, Part 3 of the GDPO.
5. Against this background, I consider the main issue in this appeal to be, whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GDPO, having regard to building operations necessary for the building to function as a dwellinghouse, and the compliance with the relevant conditions and procedures of the GDPO.

Reasons

6. The appeal building is a detached steel framed barn with corrugated sheet cladding to its sides and roof. At the time of my visit, the building was being used for the storage of farming and other equipment, including a tractor, various building materials, and office furniture.
7. The existing agricultural building would be retained as part of the proposal, including its overall form, scale, and external cladding. The appellant's structural report indicates that the building's superstructure is generally in sound condition and capable of conversion.
8. The Council makes the point that the existing cladding requires upgrading and that the works to all elevations would comprise substantial re-building of the pre-existing structure to the extent it would create a new building. However, the external cladding would be retained as part of the proposal and upgraded thermally.
9. The Planning Practice Guidance (PPG) explains that under Class Q, building operations may include those which affect the external appearance of the building that would otherwise require planning permission, including the installation or replacement of windows, doors, roofs, and external walls. Therefore, even if the external cladding were to be replaced wholesale, this would comprise building operations that are allowed for under Class Q.
10. According to the proposed plans, other operations to convert the appeal building to a dwellinghouse include thermal upgrading to the walls, floor, and roof; the installation of windows and doors, as well as eight roof lights. There would also be internal subdivisions and a staircase added up to a first floor, as

well as the installation of a kitchen, utility, WC, and three ensuite bathrooms. The PPG also indicates that internal works are generally not development and that, for a building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q.

11. The parties have drawn my attention to the High Court judgment, *Hibbitt v. SSCLG* [2016] EWHC 2853 (Admin), particularly in relation to the distinction between conversion and rebuild. Taking this judgment into account, together with the guidance in the PPG and provisions of the GDPO, I am satisfied that the proposed building operations meet the requirements of Class Q.1(i)(i) (aa), (bb) to the extent that they are reasonably necessary for the building to function as a dwellinghouse. Therefore, the proposal would satisfy the requirements of Class Q (b) of the GDPO.
12. The Council's decision notice refers to the proposed development as not complying with Condition Q.2(2) and Paragraph W(11) of the GDPO. However, Condition Q.2(2) of the GDPO refers to where the development proposed is development under Class Q (a) only, whereas it is evident that the appeal and original application relates to development proposed under both Class Q (a) and Class Q (b). It is Condition Q.2(1) of the GDPO that establishes that development under Class Q (a) and Q (b) is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required under matters of Q.2(1) (a)-(g), as well as the provisions of paragraph W, in relation to that application.
13. Conditions Q.2(1) (a)-(g) relate to transport and highway impacts; noise impacts; contamination risks on site; flooding risks on site; whether the location or the siting of the building makes it impractical or undesirable for the change of use; the design or external appearance of the building; and the provision of adequate natural light in all habitable rooms of the dwellinghouse. The Council's Officer Report does not raise any objections to the proposed development in respect of contaminated land, character and appearance, highways, flooding, residential amenity, location and siting. Taking this into account and from my own observations, I consider that the proposed development satisfies the requirements of Q.2(1) (a)-(g).
14. Additionally, the procedure outlined under paragraph W(11) of the GDPO sets out that the development must not begin before the occurrence of one of three scenarios (a), (b), and (c). The Council makes the case that the development commenced before it was given written notification of the prior approval application and therefore does not satisfy paragraph W(11) of the GDPO.
15. I note the Council's point that the size of the openings installed are of domestic scale. I also noted during my site visit that some of the extant openings and the first floor are in similar positions to those shown on the proposed plans. Furthermore, I appreciate that the Council considers that the alterations and lack of detail about the agricultural operations at the farm, in their view, suggests that the barn is no longer in agricultural use. However, the case has not been made that the appeal building is not in agricultural use under Class Q (a) of the GDPO.

16. It is not for me to determine, as part of this appeal, whether the pre-existing works satisfied the requirements for agricultural permitted development rights in respect of being necessary for agriculture, nor whether they are unauthorised. Rather, it is necessary to establish whether the development that is currently proposed has already started.
17. While there are similarities in the existing openings at the appeal building, not all directly correlate to the proposed plans before me. The appellant contends that the works to the barn were carried out sometime between the first and second previous prior notification applications. The Council's delegated report in respect of the second application ref. 22/04400/PDQ seems to corroborate this, insofar as it refers that in 2018 the appeal building was an open-fronted agricultural storage building, and that building works had subsequently been carried out that included structural improvements, installation of cladding to the front elevation, insertion of window openings and installation of a first floor. Therefore, as these works were carried out between the determination of the first and second applications, they relate to a previous proposed development, not that now before me.
18. Taking all the evidence provided into account, it is not clear that the proposed development relevant to the appeal and its associated application for prior approval has commenced. Therefore, I do not consider there has been a breach of the procedures set out in Paragraph W(11) of the GDPO in this instance.
19. Accordingly, drawing all of the above together, I conclude that the proposed development would be permitted development under Schedule 2 Part 3, Class Q of the GDPO.

Conditions

20. Paragraph Q.2(3) of the GDPO stipulates that development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. I have also attached a condition requiring development to be carried out in accordance with the approved plans, in the interests of certainty.

Conclusion

21. For the reasons given above, the appeal should be allowed and prior approval is granted.

C Billings

INSPECTOR