



Appeal Decisions

Site visit made on 4 June 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 18th June 2024

Appeal A Ref: APP/E2001/W/23/3331226

Kiln House, Kiln House Lane, Tunstall, East Riding of Yorkshire HU12 0JH

- 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 (as amended).
 - The appeal is made by IAPS Ltd against the decision of East Riding of Yorkshire Council.
 - The application Ref is 23/00956/AGRN0T.
 - The development proposed is change of use of agricultural building (barn 1) to form 1 dwelling with associated building operations.
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Appeal B Ref: APP/E2001/W/23/3331227

Kiln House, Kiln House Lane, Tunstall, East Riding of Yorkshire HU12 0JH

- 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 (as amended).
 - The appeal is made by IAPS Ltd against the decision of East Riding of Yorkshire Council.
 - The application Ref is 23/00957/AGRN0T.
 - The development proposed is change of use of agricultural building (barn 2) to form 1 dwelling with associated building operations.
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Appeal C Ref: APP/E2001/W/23/3331228

Kiln House, Kiln House Lane, Tunstall, East Riding of Yorkshire HU12 0JH

- 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 (as amended).
 - The appeal is made by IAPS Ltd against the decision of East Riding of Yorkshire Council.
 - The application Ref is 23/00958/AGRN0T.
 - The development proposed is change of use of agricultural buildings (barns 3 and 4) to form 2 dwellings with associated building operations.
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Decision

1. Appeals A, B and C are all dismissed.

Preliminary Matters

2. As set out above, there are three appeals on the appeal site. They relate to four buildings located in close proximity to each other, within the same yard. To avoid duplication, I have considered them in the same decision letter.
3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) was revised in May 2024 and included amendments to Class Q. I do not consider that the changes would affect the

appeals before me, given the nature of the amendments. For clarity, I will refer to the revised paragraph numbers in my decision.

4. In relation to Appeal B, amended plans have been submitted to rectify a discrepancy in the amount of curtilage land proposed. The appellant has identified that this was due to a scaling issue when measuring the drawings through different methods. In addition, the proposed window arrangement has changed in the northern elevation. The appeal procedure has provided the opportunity for the Council to comment on these plans and given the changes identified would not fundamentally change the previous scheme I do not consider that any party would be prejudiced by the acceptance of these plans.
5. Paragraph X of the GPDO, defines the curtilage of Class Q development, as being either a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser. In other words, this provision seeks to limit the size of the curtilage and establishes a maximum requirement, rather than a minimum.
6. The initial drawings received by the Council demonstrated a discrepancy in the amount of curtilage provided with the proposed dwelling, with it appearing to exceed the land area occupied by the agricultural building. The Council has confirmed that based on the amended drawings, the proposal would comply with the provisions of paragraph X. Based on the evidence before me, I have no reason to disagree.

Background and Main Issue

7. Class Q(a) of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses), and, under Class Q(c), building operations reasonably necessary to convert the building for that purpose. This is subject to a number of situations where such development is not permitted, listed under Paragraph Q.1.
8. In relation to all three appeals, the Council contend that the proposals would fail to comply with the limitations set out in paragraph Q.1 given the amount of re-building works that would be required.
9. Consequently, with regard to all three appeals, I conclude that the main issue is whether the proposed developments would comply with the requirements applicable to development permitted by Class Q of the GPDO, with particular regard to the extent of the proposed building operations.

Reasons

10. Paragraph Q.1 (j) places restrictions on the building operations which can be undertaken under this class. It states that development is not permitted if it would consist of building operations other than: (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 dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out the building operations allowed.

11. The Planning Practice Guidance (PPG) provides advice on the interpretation of Class Q. It clarifies that Class Q assumes that the agricultural building is capable of functioning as a dwelling. 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.
12. Both parties have referred me to the caselaw in *Hibbitt v SSCLG & Rushcliffe Borough Council* [2016] EWHC 2853 (Admin), which related to the difference between a conversion and a rebuild/fresh build under Class Q of the GPDO. *Hibbitt* established that a building must be capable of conversion to a residential use without building operations that were so extensive as to amount to complete or substantial rebuilding. Whilst the *Hibbitt* case is materially different to the appeal cases before me, the principles relating to the difference between conversion and rebuild/fresh build are relevant.
13. The submitted structural appraisal advises that there is no need for the undertaking of any structural works and that all four buildings overall, are of sound condition and suitable for conversion. The Council has not provided any evidence to the contrary on this point. However, I acknowledge that the structural soundness of a building does not alone determine whether a proposal would amount to a rebuild / fresh build.

Barn 1

14. I noted on site that part of barn 1 shown on the drawings was no longer present, although I noted the concrete floor and part of a low brick wall in the location where it is identified on the drawings was still there. Consequently, the existing drawings showing the northern, eastern and western elevations do not reflect what is on site. Nonetheless, I acknowledge that the structural appraisal identifies that this part of the building was to be demolished and this is also reflected in the proposed plans. I also note that both the appellant and the Council have confirmed that a prior notification application for demolition of parts of the building, not subject to the proposal before me now was granted in July 2023.
15. At the time of my site visit, barn 1 was formed on three sides by a mixture of concrete, blockwork and brickwork. There was some limited timber cladding along part of the southern elevation at eaves level. A concrete floor was in place. The western elevation was open, with timber framework present in part of the opening. There is no mention of the existing brickwork or timber cladding on the annotation identified on the proposed drawings, it only refers to blockwork and concrete panelling and corrugated metal sheet roofing. The proposed technical drawing refers to the walls as being brickwork dwarf wall and cladding above, which also does not relate to the materials present currently.
16. In terms of the roof, I note the section details that have been provided and the appellant's claims that the proposal would retain the existing roof materials and replace panels where necessary. However, whilst the underlying roof structure may be used, I am unconvinced that it would be feasible to retain the existing roof covering. From my observations on site, it appeared that there were consistent small holes in a significant number of the roof sheets and in some

instances larger gaps. The follow up comments from EST- Environmental dated 18/04/2024 also state that in relation to barn 1, that the roof is to be replaced with a modern-day equivalent.

Barn 2

17. The drawings submitted in respect of barn 2, do not appear to show the current built form on site accurately. The roof formation in particular appeared different to what is shown on the drawings. The walls of barn 2 are formed of a mixture of concrete, brickwork, blockwork, stone and hit and miss timber cladding. It is largely enclosed and has a concrete floor of varying levels.
18. The appellant has confirmed that the wall that makes up the proposed northern elevation would require infilling once the adjacent building is demolished. They state that it will not be load bearing and would be an infill section between the existing structure. The plans are unclear on the extent of these works.
19. Whilst there is no explanation or annotation, the western elevation appears on the drawings to be reconfigured as a result of the proposal, removing a large area of blockwork/concrete and altering it to match in with the materials adjacent, around the proposed fenestration. Details of the treatment of the existing hit and miss cladding is not clear as to whether it will be replaced or altered in some way to make it watertight.
20. The structural appraisal states that there are some signs of cracking evident, but that the majority of areas are okay. The areas with potential issues are not identified, in order to understand the extent that may need rebuilding or whether repair work would suffice. As with the case in barn 1, the proposed technical drawing for barn 2 refers to the walls as being brickwork dwarf wall and cladding above, which does not clearly reflect the combination of materials present currently.
21. There were large gaps in the corrugated cement board roof covering, particularly along the ridge line and between the top of the walls and the eaves. The appellant has clarified in the appeal statement that the retention of the roof identified in the planning statement was incorrect and that the roof would be replaced with metal cladding.
22. Whilst the follow up comments from EST- Environmental dated 18/04/2024 state that no flat roof is to be created in relation to barn 2, the drawings do show a new flat roof is proposed over an existing external courtyard area, where there is currently no roof. From the evidence before me it appears as though there may have been a pitched roof over this area previously, but this was not present at the time of my site visit. The appellant asserts that this would not be a structural element and is allowed for under Class Q.

Barns 3 and 4

23. The walls of barn 3 are constructed of a mixture of concrete, blockwork, plywood panelling and timber cladding. The walls of barn 4 are made up in the main section of concrete and horizontal timber cladding and a large metal door on the northern elevation. The walls of the area attached to the main section of barn 4 is formed of corrugated sheeting and timber cladding currently. The roof on both buildings is made up of cement board. A large area of built form is proposed to be demolished between barn 3 and barn 4 which would create two detached buildings.

24. The northern elevation of barn 3 would be revealed following the demolition of the adjacent building. The existing drawings do not show the position of the existing timber internal wall that was present. Whilst the appellant's statement does clarify that existing external walls would be retained, it is not clear what works would be carried out to this elevation, other than the creation of window openings, based on the drawings. No materials are identified on the proposed drawings in relation to this elevation, to understand whether a new wall would be provided or if the existing wall would be used.
25. The southern and eastern elevations of barn 4 would also be revealed following the demolition of the adjacent building. Whilst the internal low level separating wall between the main section and the attached section of barn 4 is not identified on the existing floor plans, it is apparent on site that there is an outer building envelope of this proposed building in situ currently.
26. The appellant's statement identifies that the proposal would retain all existing external walls. However, the annotations on the proposed drawing suggest that the walls of the area attached to the main section of barn 4 would be made up of brick and concrete panelling, rather than the materials that are present currently. It therefore appears, according to the drawings, that these walls would be replaced. A concrete floor is present in only part of the attached section. Limited information is provided on whether there are appropriate foundations in this area, where there does not appear to be a floor slab.
27. There were some gaps in the roofs in both barn 3 and 4 and I note that the appellant has clarified in their appeal statement that notwithstanding the annotation on the drawings, that both roofs would be replaced with metal cladding.

Concluding comments on building operations

28. For all the barns, construction details are provided to show how the existing concrete floor slabs would be upgraded and insulation installed internally. I understand that this is an indicative diagram and does not suggest that the building will be 'stripped back' and replaced in its entirety, but that it would allow for repair/replacement in localised areas.
29. I note that the proposed external works on each drawing are stated as being kept to a minimum, including general building maintenance that would be required in any case for the existing use. However, there is no detailed schedule of works identified for each building. I find that the evidence provides conflicting information that does not clearly identify the amount of building operations proposed. It also does not reflect the materials present in the buildings on site accurately.
30. Considering all three appeals, I find that the appellant's proposals for the conversion of the buildings are not supported by a detailed method statement or clear annotated drawings identifying the full extent of the proposed works to facilitate the proposed conversions.
31. I accept that substantial works, such as the installation of walls, roof, internal floor slab, windows and doors, are specifically covered by Q.1. Additionally, as advised by the PPG, I note that internal works are generally not development. However, I am not satisfied based on the evidence before me that the totality of the works that would be necessary to allow the buildings to be used as

dwellinghouses would not amount to substantial re-building, as currently proposed.

32. Consequently, I conclude that there is insufficient evidence to demonstrate that each of the proposed developments would not require building operations that would go beyond what would be reasonably necessary for the buildings to function as a dwellinghouse. It follows that, based on the evidence before me, I cannot find that the appeal schemes are development permitted under Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

33. With regard to Appeals A and C the Council state that the proposals would not comply with Q.2 (1)(f) in that the design and resultant external appearance of the buildings would have a harmful effect on the character and appearance of the site and its surroundings. However, having found that the proposal would not be permitted development, it is not necessary for me to consider the prior approval matters listed under the condition in Paragraph Q.2.(1) of Class Q of the GPDO, including matters relating to the design or external appearance of the buildings.
34. The appellant has provided copies of previous appeal decisions whereby Inspectors have determined that the nature of the building works proposed would be reasonably necessary for the respective buildings to function as dwellinghouses. However, I do not have the full context of these decisions including the precise conditions of the relevant agricultural buildings for conversion, the evidence that supported the submissions or the full extent of works involved in each case. I have considered the appeals before me on their own merits and have found the evidence before me to be insufficient to demonstrate the proposal would be permitted development.
35. I note that the appellant states that other than Environmental Control there were no objections from technical consultees and that the conditions suggested would be acceptable. Nevertheless, a lack of objections or the use of the conditions identified would not overcome the fact that the proposals are not permitted development.
36. A response by the Council to a consultation carried out in 2021 was provided by the appellant, which identifies the concerns at the time about the effect the permitted development rights were having on resources and community confidence in the planning system. Be that as it may, I have considered the appeals on their individual merits against the requirements of the GPDO.

Conclusion

37. I find that the proposals in relation to Appeal A, Appeal B and Appeal C would not be permitted development under Schedule 2, Part 3, Class Q of the GPDO. As such, all three appeals are dismissed.

G Dring
INSPECTOR