



Appeal Decision

Site visit made on 9 May 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2024

Appeal Ref: APP/J0405/W/23/3328430

Land Adjacent 6 Wotton End, Ludgershall, Bucks HP18 9NT

- 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 Ms E Rolfe against the decision of Buckinghamshire Council.
 - The application Ref is 23/01928/COUAR.
 - The development proposed is change of use of agricultural building to dwelling.
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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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), for change of use of agricultural building to dwelling at Land Adjacent 6 Wotton End, Ludgershall, Bucks HP18 9NT, in accordance with the terms of the application, Ref 23/01928/COUAR, and the plans submitted with it, including 'SITE LOCATION AND LAYOUT' – Drawing No 101, and 'PLANS & ELEVATIONS' – Drawing No 101 Rev A, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q. 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 Schedule 2, Part 3, Class Q of the GPDO, the provisions specified in paragraph W and the following additional condition:
 - 1) The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and retained thereafter for this purpose.

Preliminary Matters

2. The description of development in the application form simply states, "See Statement and Plan". Accordingly, the description of development in the banner heading above has been taken from the front cover of the planning statement submitted with the application for prior approval.
3. An update to the National Planning Policy Framework (the Framework) was published on 19 December 2023. Other than changes to paragraph numbering, there are no material changes relevant to the substance of the appeal.
4. 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), development is permitted for 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), together with building operations reasonably necessary to convert the building, subject to certain limitations and conditions.

5. 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.
6. The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024 (the Amendment Order) came into force on 21 May 2024. The Amendment Order amends the GPDO, including with regard to Class Q of Part 3.
7. However, the Amendment Order is subject to transitional provision, which effectively provides that applications for prior approval determined before 21 May 2025 can be determined against the previous regulations if, by virtue of the Amendment Order, it would no longer be permitted under Class Q on or after 21 May 2024.
8. The application to which the appeal relates was determined against the GPDO as it was prior to 21 May 2024 and the parties' arguments are based on these regulations. Accordingly, unless otherwise stated, references to the GPDO in this decision refer to the version against which the Council determined the application. The main parties have been given the opportunity to comment on the changes to the GPDO arising through the Amendment Order and I have taken account of these comments in my decision.

Main Issues

9. The main issues are whether the proposal would be permitted development in terms of the limitations and conditions set out in the GPDO, with regard to:
 - the use of the site; and
 - the extent of the building operations reasonably necessary for the building to function as a dwellinghouse.

Reasons

Use of the site

10. To be considered permitted development, proposals must comply with one of three criteria listed under paragraph Q.1.(a) regarding the use of the site. Criterion Q.1.(a)(i) states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. Criterion (ii) relates to sites that were in use before that date but not in use on that date, and criterion (iii) relates to sites that were brought into use after 20th March 2013. The appellant does not claim that criteria (ii) or (iii) apply, but seeks to demonstrate that the site was used solely for an agricultural use on 20 March 2013, thereby complying with criterion (i).
11. The appellant's case is supported by a statutory declaration (SD) from the tenant of the site. The tenant confirms that they farm from a local farmstead and rent other land in the area including "Land Adjacent 6 Wotton End", where

sheep and cattle have been kept since before 2009/2010, and the tenant has had exclusive use since 2010. The SD confirms that the tenancy agreement includes use of the building subject to the appeal, which has been used for sheep and calves, and the use continues to this date. Whilst the SD does not include a plan outlining the full extent of the land rented, it includes a clear photograph of the building subject to the appeal and its adjacent land being used to house sheep.

12. Interested parties, including the occupants of the closest dwelling to the appeal site, contest the appellant's claims. Their grounds include that cattle and sheep did not appear in the field until 2016, that the land was used for keeping horses during and before 2010, and that there have been periods since 2013 where the land was unoccupied.
13. The evidence provided by the interested parties includes date-stamped photographs from January 2010, showing horses in the adjacent field. Further date-stamped photographs depict the field appearing empty and the building as vacant in 2012, 2013, 2015 and 2016. Additionally, there are undated photographs showing cows in the field to the east of the site, adjacent to a separate barn building.
14. The building's historic use for agricultural purposes is inherently seasonal, likely resulting in periods when the building and fields were not in use. This was indeed the case during my visit. However, the presence of fresh hay and animal droppings indicated recent occupation by livestock.
15. The Council considers that the submissions of the interested parties cast doubt on the land's historic use. Whilst I do not question the authenticity of the photographs, they do not provide compelling evidence to contradict the appellant's statement. The photographs of horses are unrelated to the building itself, and the undated photographs carry little weight. Furthermore, periods of vacancy do not necessarily equate to a cessation of agricultural use.
16. The Council suggests that a legal statement is not the appropriate method to establish an agricultural operation, as this should be done by way of a certificate of lawfulness. Nonetheless, I am required to determine the appeal based on the evidence before me. The Statutory Declaration Act 1835 imposes serious consequences for false statements in a SD, lending significant weight to this evidence.
17. Given these considerations, the evidence of the Council and interested parties does not persuade me to discredit the appellant's evidence in their statement and SD. Accordingly, based on the criteria of the GPDO, I am satisfied that the use of the building complies with the criteria listed under paragraph Q.1.(a) of the GPDO.

Extent of building operations

18. Paragraph Q.1.(i) states that development is not permitted by Class Q 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. Having regard to the judgment in *Hibbitt*¹, I must

¹ *Hibbitt and another v Secretary of State for Communities and Local Government* (1) and *Rushcliffe Borough Council* (2) [2016] EWHC 2853 (Admin).

consider whether the proposed works would amount to the conversion of the existing building or a rebuild.

19. The appellant has submitted a structural report concluding that the existing building is capable of conversion. This is based on a visual inspection of the building, including the condition of its walls, roof and concrete slab foundation.
20. The submitted plans indicate that the existing walls and roof would largely be retained, with necessary repairs to the current structure. New doors and windows would be installed in positions similar to those existing, and some existing openings would be infilled with new timber joinery. These works would fall within the limitations of paragraph Q.1.(i).
21. The Council contends that the structure is currently the minimum necessary to form a stable block, and that converting it to a dwelling would require significant strengthening of the structure and frame to cater for the additional loadings. The Council questions whether the proposed works, which mainly involve replacing damaged materials on a like-for-like-basis, would be robust enough for residential use. It also notes that the structural report does not consider the issue of foundations.
22. The Planning Practice Guidance (PPG) confirms 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. Therefore, 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.
23. During my visit, I observed the building to be in reasonable condition, with an electricity supply evidenced by lighting throughout. Although the structure is lightweight, with slender timber walls and roof, it appeared robust, structurally sound, and fully enclosed. There was no immediate evidence of leaks despite recent heavy rain, and the building appeared weathertight. The existing building was also consistent with the details shown on the submitted plans.
24. The Council has concerns that the concrete slab foundation is unsuitable for residential use and that the required conversion works would place excessive loads on the external structure to the extent it would comprise a rebuild. However, the appellant's structural survey suggests the existing structure and foundations are capable of conversion, and my observations during my visit do not contradict this. Internal works would include insulating the external walls and roof, installing partition walls and provision of services and utilities. The PPG confirms that internal works are not generally development, and for the building to function as a dwelling it may be appropriate to undertake internal structural works.
25. The retention and repair of the external walls and roof, and the insertion of new windows and doors, are reasonably necessary to make the building suitable for residential occupation. Such works would not comprise a new build or a rebuilding of the structure, but rather a conversion of the existing building.
26. Based on the evidence provided, I am satisfied that the building's structural integrity is sound and would form an integral part of the new dwelling. The building operations are reasonably necessary and comply with the limitations set out in paragraph Q.1(i) of the GPDO.

Other Matters

27. Paragraph Q.2.(1) of the GPDO outlines the matters that the local planning authority can consider in determining an application for prior approval. The Council's officer report does not consider the proposal would be unacceptable based on any of these matters. However, I shall address the concerns raised by interested parties in relation to these matters.
28. Paragraph Q.2.(1)(a) relates to the transport and highways impacts of the development. There are concerns regarding the access on to a bend on what is claimed to be a fast and busy road, and that access is via a narrow and unmade lane where cars can be parked at various times of the day.
29. The access route to the appeal site is presently used to access a field that may be used by various agricultural vehicles and machinery throughout the year. Therefore, the vehicle movements associated with the proposed development for a single dwelling are unlikely to cause transport or highways issues. The proposal includes provision for vehicles to manoeuvre and turn without inconveniencing the existing neighbouring dwellings, and my observations on site suggest the access would be adequate to serve a single dwelling.

Conditions

30. Prior approval granted under the aforementioned provisions of the GPDO is subject to the condition specified in paragraph Q.2(3), which requires the development to be completed within a period of 3 years starting with the prior approval date.
31. I have listed the submitted plans in my formal decision above. Paragraph W(12) of Schedule 2, Part 3 of the GPDO requires development to be carried out in accordance with the details submitted. Accordingly, the Council's suggested plans condition is not necessary.
32. The Council has suggested a condition requiring the scheme for the parking and manoeuvring of vehicles shown on the submitted plans to be laid out prior to the initial occupation of the development. This condition is reasonable and necessary to ensure vehicles are able to turn within the site, in the interests of transport and highways impacts, which are among the prior approval matters listed by the GPDO.
33. Given my findings in relation to the access route, a condition requiring its upgrading is neither reasonable nor necessary. Additionally, I am not persuaded that a condition requiring a scheme for the provision of electric charging points falls within the scope of the prior approval matters listed by the GPDO.

Conclusion

34. For the reasons given above, I conclude that the appeal should be allowed, and prior approval is granted subject to the conditions listed in my formal decision.

P Storey

INSPECTOR