

Appeal Decision

Site visit made on 20 August 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th September 2024

Appeal Ref: APP/C3430/W/23/3333793

Whiston Barns, Whiston Road, Whiston, Staffordshire ST19 5QH

- 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 Mr A Mould of B J Mould Ltd against the decision of South Staffordshire District Council.
 - The application Ref is 23/00478/AGRRES.
 - The development proposed is described as 'application to determine if prior approval is required for a proposed change of use of an agricultural building to 1 no. dwellinghouse (Use Class C3), and for building operations reasonably necessary for the conversion'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr A Mould of B J Mould Ltd against South Staffordshire District Council. This application is the subject of a separate decision.

Preliminary Matters

3. No description of the development has been provided on the application form. As such, I have taken the description from the decision notice and appeal form.
4. The building operations described in the supporting information and shown on the appeal plans include the demolition of a second agricultural building (hereinafter referred to as the separate building). The evidence indicates that such demolition has been approved under a separate application process. Nonetheless, there is nothing before me that states that the demolition element of the proposal has been withdrawn from the overall scheme. Consequently, I have determined the appeal on the basis that it forms part of the proposed development.

5. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of a) a change of use of an agricultural building to a dwellinghouse and b) building operations reasonably necessary to convert the building.
6. Class Q.1 of the GPDO sets out circumstances where such development is not permitted. At (i)(i) it limits building operations to the installation or replacement of (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse and (i)(ii) partial demolition to the extent reasonably necessary to carry out the building operations allowed at Q.1(i)(i).
7. Conditions to which the permitted development right is subject are set out a paragraph Q.2 of the GPDO. Paragraph Q.2(1) sets out that development is permitted under Class Q(a) and Q(b) 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 as to a number of considerations. These include Q.2(1)(f), the design or external appearance of the building.
8. Paragraph W(3) of the GPDO states that a local planning authority may refuse an application where, in their opinion, (a) the proposed development either does not comply with, or (b) that a developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions applicable to the development. In addition, paragraph W(13) states that the LPA may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
9. The Council consider that the proposal is not permitted development as the proposed works to the building and the demolition of the second agricultural building are not reasonably necessary for its conversion to a dwellinghouse. Additionally, it considers that insufficient information has been submitted to determine whether the design and external appearance of the building would be acceptable.

Main Issues

10. Therefore, the main issues are:

- whether the building operations proposed are reasonably necessary for the building to function as a dwellinghouse; and if so
- whether or not prior approval would be required in accordance with the condition set out in paragraph Q.2 (1) (f) with particular regard to the sufficiency of the information provided.

Reasons

Building operations

11. The appeal building is a pitched roofed, steel portal framed barn. Three of its elevations are clad with profiled steel sheeting, with its fourth side

completely open. Its roof is clad in corrugated cement sheets supported on timber purlins. Whilst the building has a simple, utilitarian appearance, it is not insubstantial.

12. Neither the GPDO nor the Planning Practice Guidance (PPG) define the term 'reasonably necessary'. As such, this is a matter of planning judgement based on fact and degree of an individual case. In the case of *Hibbitt v SSCLG* [2016] EWHC 2853, it was held that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building.
13. The Structural Condition Survey (the Survey), submitted with the application, found no significant or obvious defects to the portal frame, the purlins, or the single skin external wall and roof cladding. Based upon my observations at the site visit, I have no reason to disagree.
14. The existing steel frame would be retained in its entirety as would the existing walls, one of which would be punctuated by several windows and doors. The roof and walls would be lined with plaster boarding and insulated. Internal stud walls would be inserted, and the concrete floor would be covered. Whilst there is uncertainty as to whether the roof contains asbestos, and whether it would therefore need to be removed, it is apparent from the Survey that the existing portal frame and purlins could support a replacement cement fibre roof.
15. The Council have highlighted that the Survey does not expressly assess the implications of the proposed internal alterations. Nevertheless, the appellant states that such alterations would not require structural works or affect the structural integrity of the building, and there is no compelling evidence before me that suggests otherwise.
16. The proposed infilling of one elevation with profiled steel sheeting, a roller shutter door, and extensive glazing, would not be excessive relative to the existing building and would be necessary to make it weatherproof and suitable for human habitation. Such works would therefore meet the requirements of Class Q.1(i)(i) (aa) which allows the installation or replacement of roofs and exterior walls to the extent that is reasonably necessary for the building to function as a dwellinghouse. Moreover, such external works, even in combination with the proposed internal alterations, would not be of such magnitude that the proposal would constitute a rebuild or a new building.
17. There is nothing before me that suggests that the building to be converted could not function as a dwellinghouse if the separate building were to remain on site. In any event, such demolition does not comprise any of the specified building operations at Q.1 (i)(i) (aa) or (bb). Furthermore, whilst paragraph Q.1(i)(ii) allows partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i) the removal of the separate building would be complete, and not partial, demolition. Consequently, as it would consist of building operations other than those at Q.1 (i)(i) and (i)(ii), such demolition is not permitted by Class Q.

18. In addition, there is no compelling evidence to determine that the demolition of the separate building is required, or reasonably related, to the prior approval matters set out at paragraph Q.2(1). Therefore, requiring its removal through a negatively worded condition would go beyond what is acceptable under paragraph W(13).
19. The appellant has referred to several other Class Q decisions of South Staffordshire District Council and at appeal, and I acknowledge that the demolition of a separate building was approved in some of them. Nonetheless, the issues around Class Q are highly fact sensitive, turn on the totality of an often-diverse array of site-specific circumstances, and are the preserve of individual planning judgement. In the absence of the full details of those cases, they have had little weight in my assessment of the appeal proposal.
20. Overall, I am satisfied that the structural integrity of the building is sound and would form an integral part of the conversion, and, thus, the building would be capable of functioning as a dwelling. However, for the reasons given above, the demolition of the second building would exceed the limitations set out in paragraph Q.1(i) and (ii). It therefore follows that I cannot find that the appeal scheme is development permitted under Schedule 2, Part 2, Class Q of the GDPO.

Prior approval

21. Given my conclusion that the proposed change of use would not be development permitted under Class Q.1(b) of the GPDO, there is no need for me to consider whether or not prior approval would be required in accordance with the condition set out in paragraph Q.2(1)(f) as it would not alter the outcome of the appeal.

Other Matters

22. The appeal site is located within a 15kilometre buffer zone of the Cannock Chase Special Area of Conservation (SAC). Therefore, a financial contribution towards mitigation is required. The appellant has indicated a willingness to make such a contribution and has provided a draft, unsigned, unilateral undertaking, made pursuant to section 106 of the Town and Country Planning Act 1990 to that effect.
23. If the circumstances requiring me to consider whether or not prior approval would be necessary had been present, it would have been incumbent upon me as the competent authority to consider whether the proposed development would be likely to have a significant effect on the integrity of the SAC in accordance with the Conservation of Habitats and Species Regulations 2017. However, as this appeal is being dismissed on other substantive grounds, this is not a matter which require further consideration.
24. Reference has been made to Whiston Hall, a Grade II listed building. Whiston Hall is set back some distance from Whiston Road and is separated from the appeal site by the carriageway and substantial screen planting. Consequently, I am satisfied that the proposed development would not materially affect the way that such a listed building is experienced.

Conclusion

25. For the reasons given above, I conclude that the proposed development is not permitted development under Schedule 3, Part 3, Class Q of the GPDO and that the appeal should be dismissed.

Elaine Moulton

INSPECTOR