



Appeal Decision

Site visit made on 3 September 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2024

Appeal Ref: APP/G1630/W/24/3336811

The Black Barn, Meadow Lane, Laverton Meadows, Wormington, Worcestershire

- 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 and Mrs B Hoyles against the decision of Tewkesbury Borough Council.
 - The application Ref is 23/00532/PAD.
 - The development proposed is conversion of existing Dutch barn with lean-to.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the original application form, albeit shortened to only include information necessary.

Background and Main Issues

3. 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.
4. The Council may refuse the application where it considers that the proposed development would 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.
5. 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.
6. 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

7. The existing structure on the site is a simple Dutch barn with a single-storey lean-to. The building comprises a metal frame with an arched sheet metal roof. The barn's elevations are predominately open with only one side elevation of the main building, and the gable ends of the lean-to, fully clad with corrugated metal sheeting.
8. Class Q(a) of the Order 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(b), building operations reasonably necessary to convert the building for that purpose.
9. Paragraph Q.1(j) of the Order indicates that development is not permitted 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. Planning Practice Guidance (PPG)¹ states that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary, and that it is only where the existing building is already suitable for conversion to residential use that it would be considered to have the permitted development right.
10. In addition, the PPG specifically refers to the case of *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)* (the Hibbitt case). This case has also been referred to by both main parties. Amongst other things, the Hibbitt case explored the distinction between works required for the conversion of an existing agricultural structure or building to a dwellinghouse, and works amounting to its rebuilding or, in effect, the creation of a new building. Ultimately Hibbitt set out that this distinction is a matter of legitimate planning judgement.
11. In the case before me, the appellants have provided a structural survey, dated 30 June 2021 (the survey) which was undertaken by Richard Strauss Associates Consulting Structural Engineers. The survey concludes that the barn is in good structural condition, and that the metal cladding and existing frame could be retained as part of a conversion.
12. While the existing barn might be in good condition overall, and I have no reason to dispute the findings of the survey, and no substantive evidence from the Council that challenges the appellants' structural findings, whether the level of works involved would constitute a conversion is a matter of planning judgement. Whether the existing building is already suitable for conversion to residential use, or whether the works amount to the creation of a new building, does not wholly depend on whether the existing structure is sufficiently robust to bear the loading from external works.
13. The three open sides would require the construction of new walls rather than lining of the existing wall sheeting, as is suggested within the structural report,

¹ Paragraph: 105 Reference ID: 13-105-20180615

and as shown on the existing and proposed sections drawing. The external works would predominately comprise new elements which would, albeit not required to structurally support the existing building, would be new structural elements. The extent of these structural elements is significant due to the lack of existing walls. Consequently, it is my judgement that the current building is not capable of functioning as a dwelling and is, therefore, not capable of conversion.

14. In this regard the appeal before me is materially different to the Hurst Farm appeal² referred to by the appellants in which the existing building was clad to most of three sides and where the open sections would be predominately infilled with glazing.
15. The appeal before me has more similarities with the Hibbitt case, which was also largely open to three sides and where the existing structure was capable of taking the loading for the new panels. Nevertheless, the judgment determined that the proposed works would not amount to conversion. Although there are similarities with Hibbitt, each case should be determined on its own merits, having regard to the particular circumstances. In this case, I have considered the evidence before me and my own observations.
16. Although replacement of the roof cladding and the laying of a new concrete floor has been agreed as lawful and not constituting development under a Lawful Development Certificate³, these works would not result in a building that is capable of conversion without the substantial new elements proposed in the current appeal.
17. I, therefore, find that the works required to infill the open elevations, and to repair the existing frame, roof, and cladding, go beyond building operations that are reasonably necessary for the existing building to function as a dwelling. The existing building is not suitable for conversion. Indeed, while the proposed dwelling would retain the general appearance of the existing barn, including the metal cladding, I am satisfied in this instance that, having regard to the Hibbitt case, the proposal would be more akin to a partial rebuild and new building work, rather than a conversion.
18. Moreover, although I note the level of support from interested parties this does not alter my conclusion on this matter or weigh in favour of converting the building which is not capable of being converted.
19. For the above reasons, the proposed development falls outside the scope of permitted development rights under Class Q.1(i). Accordingly, the proposal would not be permitted development.

Whether prior approval is required and should be granted

20. 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 not assessed the proposal against Q2 of the Order.

² APP/J1860/W/22/3302433

³ Council reference 22/00677/CLP dated 28 October 2022

Conclusion

21. For the reasons given above, and taking into account all other matters raised, the appeal is therefore dismissed.

K Townsend

INSPECTOR