

Appeal Decision

Site visit made on 5 September 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2024

Appeal Ref: APP/P2935/W/24/3344350

Keepersfield Farm, Humshaugh, Northumberland NE46 4BB

- 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 M Maughan against the decision of Northumberland County Council.
 - The application Ref is 24/00783/AGTRES.
 - The development proposed is the conversion of agricultural buildings to dwellings.
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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 the conversion of agricultural buildings to dwellings at Keepersfield Farm, Humshaugh, Northumberland NE46 4BB in accordance with the terms of the application, Ref 24/00783/AGTRES, subject to the conditions in Paragraph Q.2(3) of Schedule 2, Part 3, Class Q of the GPDO in that development must be completed within a period of 3 years from the date of this decision, as well as the provisions specified in paragraph W and the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the Bat Survey (March 2024) by OS Ecology, including the recommendations made in section 6 and the method statement at appendix 5. Agreed features for roosting bats shall be installed in accordance with the approved details and retained as such thereafter. Evidence of any checking surveys shall be provided to the local planning authority in writing and the development hereby permitted shall be carried out in accordance with any agreed mitigation measures.
 - 2) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, development on

the affected part of the site shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Should no unexpected contamination be found, this shall be confirmed in writing to the local planning authority prior to the occupation of the development hereby permitted.

Preliminary Matters and Main Issues

2. The description of development above is taken from the decision notice, omitting wording that is not an act of development, as there was no description provided on the application form. In addition, the above legislative provisions were updated on 21 May 2024. However, due to transitional arrangements, I am required to determine this appeal in accordance with those that were in force at the time the original application was submitted. All references to the GPDO in this decision therefore relate to the version that was in force at that time.
3. Schedule 2, Part 3, Class Q of the GPDO permits the change of use of agricultural buildings to dwellings. Sub part (a) refers to the change of use and (b) the building operations reasonably necessary for the conversion. Paragraph Q.1 goes on to set out several limitations of Class Q. The appeal relates to a change of use of agricultural buildings to dwellings as well as associated facilitating works. The Council contend that the proposed works go beyond what is reasonably necessary to convert the buildings and so would not be permitted development. No consideration was given to the prior approval matters listed in paragraph Q.2(1) of the GPDO.
4. Consequently, the main issues are:
 - whether the proposed development would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to whether the extent of the proposed works would be reasonably necessary to convert the buildings to dwellings; and
 - if permitted and not excluded under Class Q, whether the prior approval details would be acceptable.

Reasons

Whether permitted development

5. The appeal site is located in the open countryside and comprises two farm buildings, consisting of stone, timber cladding, cast iron columns, timber roof beams and slate. The larger of the buildings has two open sides, one partially open side and a brick built lean to element. The smaller building has one partially open side.
6. The GPDO states at paragraph Q.1(i) that development under Class Q(b) 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.

7. The Planning Practice Guidance (PPG)¹ advises that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, the PPG is clear that it is not the intention of the permitted development right to allow rebuilding work that would go beyond what is reasonably necessary for the conversion of the building to a residential use. It is only where the existing building is already suitable for conversion to residential use that the building would be considered to benefit from the permitted development rights.
8. Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement. Both parties have drawn my attention to the Hibbitt Judgment², which is also referenced in the PPG. Hibbitt related to the conversion of an agricultural building that was open to all four sides and the judgment considered whether the works required to bring about the change of use amounted to a re-build or 'fresh' build as opposed to a conversion.
9. While there has been some deterioration of the agricultural buildings at the appeal site, the appellant indicates that the buildings are in good condition and structurally capable of conversion. I did not see any steel props as referred to by the Council, which the appellant has explained were temporary while works were being undertaken to adjacent buildings as part of another permission. The proposed repairs would be modest in extent and include raking out two cracked areas and inserting steel mesh and/or helical bars across the crack and pointing in. There are also some holes in the stonework that would be made good, repointing of the buildings and the straightening and repair of three columns at the largest building.
10. Given their nature and extent, the proposed repairs do not amount to significant structural work and the original existing agricultural buildings would remain as the main structural element of the proposal. Despite the Council's concerns regarding damage to the buildings, there is no substantive evidence to demonstrate the appellant's submissions on this matter are incorrect or unreliable. Therefore, from my observations and on the basis of the evidence presented, I have no clear reason to find otherwise that the existing buildings are suitable for conversion.
11. The overall form and scale of the existing agricultural buildings would be retained with modest redesign and remodelling to facilitate their conversion. The proposed works include the installation and replacement of exterior walls, the replacement of windows and doors, the installation of new openings and the re-slating of the roofs. Class Q.1(i)(i) (aa) allows for the installation or replacement of roofs, openings and exterior walls and so the proposed works would be within the scope of Class Q.
12. Taking this and my own observations into account, the works would be reasonably necessary to make the building weatherproof and suitable for human habitation. Consequently, notwithstanding that both buildings have some open sides, the proposed works would neither represent a fresh new build nor rebuilding of the existing structures. Therefore, while the principles

¹ Paragraph 105 Reference ID: 13-105-20180615

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

established within the Hibbitt Judgment are relevant, I do not see sufficient similarities between that case and the appeal scheme.

13. Accordingly, to conclude on this main issue, I find that the proposed works would be reasonably necessary to convert the agricultural buildings to dwellings and would not exceed the limitations set out in paragraph Q.1(i) of the GPDO. As such, the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Prior approval matters

14. Paragraph Q2(1)(a) to (g) of the GPDO relates to prior approval details, including highways, noise, contamination, flooding, location or siting, design or external appearance, and the provision of natural light in all habitable rooms. Although the Council had not assessed these elements during the determination of the planning application, I note that no objections were raised in relation to Class Q.2(1) matters within the Council's appeal submissions. Based on my observations and the consultation responses received during the application stage, there is no evidence before me to conclude that prior approval should not be forthcoming.

Conditions

15. Paragraph Q.2(3) of the GPDO states that development under Class Q is permitted subject to the condition that it must be completed within a period of three years starting with the prior approval date. Further standard conditions are set out in paragraph W.(12) that requires development to be undertaken in accordance with the details provided in the application. As such it is not necessary to impose a plans condition as these are listed in the decision.
16. Paragraph W.(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. The conditions requested by the Council have been considered and amended as necessary to ensure compliance with the PPG and the National Planning Policy Framework.
17. I am statutorily required to take reasonable steps to conserve biodiversity. Therefore, a condition is necessary to ensure the proposal is carried out in accordance with the Bat Survey (March 2024) in the interest of biodiversity. Notwithstanding that the Phase 2 Contaminated Land Ground Investigation (March 2023) indicates that it would be a highly unlikely event that contamination not previously identified is encountered on site during development, given the use of the land, a condition is necessary to address the risks associated with unexpected contamination in the interest of safeguarding the living conditions of future occupiers.

Conclusion

18. For the reasons given above, I conclude that the appeal is allowed, and prior approval is granted subject to conditions.

F Harrison

INSPECTOR