

Appeal Decision

Site visit made on 18 September 2024

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 OCTOBER 2024

Appeal Ref: APP/R3650/W/23/3333775

Chilworth Barn, Blackheath Heights, Blackheath, Guildford, Surrey GU5 0RF

- 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 Don Slope against the decision of Waverley Borough Council.
 - The application Ref is PRA/2023/02107.
 - The development proposed is change of use from an agricultural building to 1 dwelling (C3 Use class).
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Decision

1. The appeal is dismissed.

Main Issues

2. This appeal relates to an application for prior approval. Nevertheless, the point in dispute between the main parties is whether the development would be permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) subject to compliance with all relevant limitations and conditions.
3. Therefore, the main issues in this appeal are whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 3 Class Q of the GPDO with regard to whether the development would consist of building operations reasonably necessary to convert the building to a dwellinghouse and a change of land within the curtilage of the building.

Reasons

Building operations

4. Development permitted under this class allows the change of use of buildings on agricultural units and former agricultural buildings to dwellinghouses and includes building operations reasonably necessary to convert the building to a dwellinghouse. The Planning Practice Guidance (PPG) sets out that 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. I have also had regard to *Hibbitt v SSCLG [2016] EWHC 2853* regarding the difference between conversions and rebuilding.

5. The existing building is a barn which is mainly open on one side with some wooden frames and enclosed on the other three sides and roof with corrugated sheeting with a compacted dirt floor. A structural survey has been submitted. It states that the building is formed of concrete columns on concrete bases, with adequate foundation bases and no serious structural movement is evident. Also, that the building is structurally sound and is capable of being converted to provide a habitable dwelling. Whilst a previous application to the LPA included more extensive works including new piled foundations, this was prior to the date of the structural report. The extent of the work that would be required for this scheme is different. As such, on the basis of the evidence before me now, the existing structure could be retained.
6. The works proposed would retain the concrete columns. However, they would also include the installation or replacement of all other parts of the building including new walls with windows and doors inserted, a new roof as well as a concrete floor, and a first floor would be added. As such the structure that would remain would be minimal with significant works required to convert the building to residential use.
7. Taken in isolation, each of the works required would generally fall under the development set out in Paragraph Q1 (j) of the GPDO and the PPG. These explain that the right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house. As well as that for the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q. However, these conditions are a separate requirement to the requirement that development must amount to a conversion. Furthermore, the only part of the existing building that would remain would be the concrete columns. Therefore, taken together, a great deal of fundamental work would be required for this building to be used as a dwellinghouse.
8. In this case, in totality the works required would be extensive. As such, taking all the above into account including both the magnitude and nature of the proposed building operations, collectively the building operations would amount to a re-building in the circumstances of this case.
9. Decisions have been submitted which relate to portal framed barns where appeals have been allowed on the basis that the works proposed would be building operations reasonably necessary to convert the building to a dwellinghouse¹. In all of these cases the Inspector considers, as a matter of

¹ Hyesfield APP/Z3825/W/15/3130771, Littleton Manor Farm APP/L3625/W/21/3267322, Grange Farm APP/H0520/W/22/3309257

fact and degree, whether the works proposed would amount to conversion. The same approach is taken for this appeal, albeit for the reasons above, a different conclusion is reached. An appeal decision at Old Woodhall Road² has also been submitted which was said to differ from Hibbit for reasons including that the proposed development did not involve the complete construction of all four walls. As such, this is clearly different to the appeal scheme.

10. The proposed development would consist of building operations that go beyond that which is reasonably necessary to convert the building to a dwellinghouse. Therefore, it would not comply with the requirements of Article 3, Schedule 2, Part 3 Class Q (c) of the GPDO.

Curtilage

11. Paragraph Q (a) (i) and (ii) require that development permitted consists of a change of use of a building and any land within that building's curtilage. Also, paragraph Q3 (1) (b) states that for these purposes, "curtilage" means an area of land immediately beside or around the building on an established agricultural unit or former agricultural building (as the case may be) no larger than the land area occupied by that building.
12. The submitted drawings show an 86sqm area around the property as curtilage, accessed via an existing track. An area for car parking is not annotated on the plans, which differs from a previous application at this site. However, there is sufficient space within the annotated curtilage, which is directly adjacent to the track, for cars to park. As such, the curtilage shown is in accordance with the definition under paragraph Q3 (1) (b) and a larger area would not be required for the proposed dwelling.
13. The parking arrangements at Grange Farm and Land off Yoxall Road³ have been highlighted. However, the matter of curtilage was not a main issue for these appeals and therefore they are not directly relevant to this main issue.
14. Therefore, for the reasons set out above, the proposed change of use consists of land within the curtilage of the building. As such, in this regard, it would comply with the requirements of Article 3, Schedule 2, Part 3 Class Q (a) of the GPDO.

Other Matters

15. Whilst the proposed development would comply with Paragraph Q (a) with regard to curtilage, that does not alter the fact that it would not be permitted development with regard to Paragraph Q (c). For the reasons set out, the appeal scheme is not permitted development. Therefore, even though prior approval is a light touch process, it is unnecessary to proceed to consider the prior approval matters.

Conclusion

16. For the reasons above, I conclude that the appeal should be dismissed.

H Miles INSPECTOR

² APP/D2510/W/22/3300279

³ APP/B3410/W/22/3311494