

Appeal Decision

Site visit made on 8 October 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2024

Appeal Ref: APP/P1615/W/24/3343418

Cotshill Farm, Lower Ley Lane, Minsterworth, Gloucestershire GL2 8JT

- 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) (GPDO).
- The appeal is made by Mr and Mrs Tim and Deborah Nelms against the decision of Forest of Dean District Council.
- The application Ref is P1203/23/PQ3PA.
- The development proposed is described as "prior approval for change of use of agricultural building to 1 dwelling and for building operations reasonably necessary for the conversion".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The form submitted with the application leading to this appeal does not include a description of the proposed development. Instead, the description in the header is taken from the Council's decision notice and from the appeal form. This description forms the basis of my assessment.
3. Since the Council's decision, Class Q in Part 3 of Schedule 2 of the GPDO (hereafter referred to simply as Class Q) has been amended through the Town and Country Planning (General Permitted Development) (England)(Amendment) Order 2024/579 (hereafter referred to as the amendment order). The appellant has provided comments on the amendment order and my assessment is based upon the provisions of the amended Class Q permitted development rights.

Main Issue

4. The main issue is whether the proposal would constitute permitted development as defined in Class Q.

Reasons

5. Class Q as amended has 3 parts. Part (a) defines as permitted development the change of use of a building on an agricultural unit and land within that

building's curtilage to a dwellinghouse. Also of relevance to this appeal is part (c) of Class Q that allows the change of use referred to under part (a) as well as building operations reasonably necessary to convert the building. Various clauses under paragraph Q1 of Class Q set out the circumstances when development is not permitted. Also, under paragraph Q2(1) of Class Q there is a requirement for a developer to apply to the local planning authority for a determination on whether prior approval is required in respect of various specified matters. This appeal follows on from such an application.

6. The Council is concerned that the proposed alterations to the building would go beyond that which could be deemed as reasonably necessary to convert the building. Advice within the Planning Practice Guidance (PPG) says that the intention of Class Q is not to allow rebuilding work that would go beyond that reasonably necessary for the conversion of the agricultural building to residential use. The PPG refers to the judgement in *Hibbett and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)* (Hibbett). This establishes that Class Q requires a proposal to represent a conversion rather than a rebuild, fresh build or new build.
7. The steel portal frame building subject of this appeal has a wide and open front elevation. A blockwork wall to about half the height of the building exists along the rear elevation and the eastern side elevation as shown on the plans. The drawings also indicate a similar blockwork wall on the western elevation but I saw that this only extends part of the distance from the rear of the building towards the front. The upper parts of the rear and side walls are constructed of vertical planks attached to a wooden frame and with gaps in between the planks. The pitched roof is covered by corrugated sheeting.
8. The appellants' structural report states "it is understood that the steel frame, masonry walls and foundations will be retained as part of the proposed works". Such a statement suggests a degree of uncertainty over whether all of the referred to elements of the building would be retained. Moreover, the appeal drawing entitled "Plans Elevations as Proposed" (the proposed plan) indicates repair work to the block wall on part of the rear elevation. On my visit I saw parts of the rear wall had cracks as well as misaligned and missing blocks. The structural report fails to explain whether the repair works would involve rebuilding part of the rear wall.
9. The proposed plan indicates the construction of the upper part of the rear and side walls would include the repair or refixing of timber cladding. The structural report fails to explain in detail as to whether such works would, in effect, mean taking away the existing cladding and framework and re-building the upper parts of the walls. As the structural report fails to confirm the timber elements of the existing walls would be retained, it is fair to assume they would be removed in order to construct the insulated walls of the proposed dwelling.
10. Under Class W paragraph (3) of Part 3 of Schedule 2 of the GPDO, an application for prior approval may be refused where insufficient information is provided that shows the development would comply with the conditions, limitations or restrictions as specified under Class Q. To my mind, the structural report and appeal plans lack clarity on the details of the proposed

alterations, particularly on the extent to which the external walls would be retained. As such, inadequate information has been provided to clearly demonstrate that the extent of building works would be reasonably necessary to allow conversion of the barn.

11. In any event, it is clear that an extra length of new block wall would need to be built to complete the lower part of the western elevation. Also, the whole of the front elevation with windows and boarding would be new. Moreover, the existing roof covering would be removed and new profile sheets provided. It would seem that part of the rear blockwork wall needs to be rebuilt and there is no clear statement that confirms the timber parts of the existing rear and side elevations would be retained. Therefore, it is fair to conclude that most of the external walls as well as the roof of the proposed dwelling would include new build or re-built elements.
12. The structural report indicates the steel portal frame and foundations are in relatively good condition. It is likely that these elements of the building would be retained and incorporated as part of the new dwelling. Also, sub-paragraph Q.1(j) of Class Q allows the installation of windows, doors, roofs or exterior walls as well as partial demolition of the building. Even so, when having regard to Hibbett, the proposed works as a whole would go beyond those reasonably necessary for the conversion of the barn.
13. The appellants have referred me to appeal decision reference number APP/P1615/W/23/3322571. In that case, an Inspector found that a change of use of a Dutch barn to a dwelling would constitute a conversion of the building. However, the Inspector says the scheme would retain the roof and majority of the walls. Another Inspector for appeal reference number APP/J1860/W/22/3303381 noted a proposal to convert an agricultural building in Alfrick would retain a significant proportion of its building fabric. Both of these cases are different to this appeal scheme in terms of the extent of building operations proposed. As such, I am not bound to arrive at the same conclusions as the previous Inspectors.
14. For the above reasons, I conclude the development would not be permitted by Class Q when having regard to the extent of the proposed building operations and the provisions of the PPG.

Other Matters

15. The Council's refusal reasons also refer to the proposed works extending beyond the external dimensions of the existing building. However, the amendment order has introduced a new sub-paragraph Q1(h) that allows protrusions of up to 0.2m beyond the extent of the existing building to accommodate building operations. The Council has not sought to dispute the appellants' contention that the works would accord with this clause. However, compliance with this particular stipulation does not address the identified non-compliance with Class Q as identified above.
16. Also, the Council raises concerns that the development would harm protected species and that the site would be an undesirable location for the residential use given its proximity to the adjoining farm and the potential of noise and odour nuisance. However, in light of my conclusion on the main issue, it is unnecessary to consider whether or not prior approval would be

required and should be granted as it would not alter the outcome of the appeal.

Conclusion

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

Jonathan Edwards

INSPECTOR