



Appeal Decision

Site visit made on 12 November 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2024

Appeal Ref: APP/J1860/W/24/3347554

Bridgecote, Welland, Malvern WR13 6NJ

- 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 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 Ms D Webb against the decision of Malvern Hills District Council.
 - The application Ref is M/24/00408/GPDQ, dated 4 April 2024, was refused by notice dated 3 June 2024.
 - The development proposed is "Notification for prior approval for the proposed change of use of an agricultural building to one dwellinghouse (Class 3) and associated operational development."
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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) (the Order) for "Notification for prior approval for the proposed change of use of an agricultural building to one dwellinghouse (Class 3) and associated operational development" at Bridgecote, Welland, Malvern WR13 6NJ in accordance with the application M/24/00408/GPDQ dated 4 April 2024.
2. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2(3) of the Order and subject to the following additional conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: P2024 001/02 Proposed Plans, P2024 001/03 Location Plan, and P2024 001/04 Site Plans.
 - 2) Prior to the first occupation of the dwelling hereby approved, an area shall be laid out within the curtilage of the property for the parking of 2 cars, and thereafter retained for the parking of vehicles only.
 - 3) Prior to the first occupation of the dwelling hereby approved, cycle parking shall be provided, in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and thereafter be kept available for the storage of bicycles.

Preliminary Matters

3. The description of development given in the application form is "See Planning Statement." Therefore, the description of development provided in the banner

heading above has been taken from the appellant's Planning Statement (April dated 2024). I have used this description in my consideration of the appeal.

4. The appellant submitted a Structural Inspection Report (dated November 2023) with the appeal. This document provides additional information but does not change the development applied for. The Council considered these documents before submitting its final comments. I am therefore satisfied no party would be prejudiced by my taking them into account in my decision.
5. On 21 May 2024, Statutory Instrument 2024 No. 579 came into force amending Article 3(1), Schedule 2, Part 3, Class Q of the GPDO. Due to the transitional arrangements, I have proceeded to determine the appeal in accordance with the GPDO provisions that were in force at the time that the application was submitted in April 2024. All references to the GPDO in this decision therefore relate to the version that was in force at that time.

Background and Main Issues

6. The Council refused the application on the basis that the proposed building operations would exceed what is considered to be reasonably necessary to convert a building into a dwelling, not complying with Q.1. The Decision Notice also refers to conflict with Q.2. While not specified in the Decision Notice, the Officer Report states that prior approval in respect of the design and external appearance of the building is refused.
7. Consequently, the main issues are:
 - whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO having particular regard to whether the building operations proposed would be reasonably necessary to convert the building to a dwellinghouse, and if found to be permitted;
 - the effect of the proposal on the design or external appearance of the building.

Reasons

Permitted Development

8. 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 GPDO), development is permitted for a change of use of an agricultural building and any land within its curtilage to a use falling within Class C3 (dwellinghouses), together with building operations reasonably necessary to convert that building, subject to the limitations and conditions.
9. The appeal site relates a detached single storey rectangular shaped agricultural barn with dual pitched roof, which is set at the end of group of barns and stables within the site.
10. The barn was constructed in the 1980s and comprises a steel portal frame with powder coated profiled steel cladded walls and roof. It is fully enclosed on four sides by full height profiled steel cladding. The front elevation of the barn has full height profiled steel cladded sliding doors to enclose the large opening that exists. The internal walls have been treated to prevent condensation.

11. The roof comprises predominantly single skin profiled steel cladding with some sections made from polycarbonate to provide natural light. The roof is supported by steel angle purlins, steel side rails and the steel portal frame. The floor consists of a level concrete slab. At the time of my visit, the roof, walls, and floor appeared to be in good condition.
12. The appellant's submitted Structural Note indicates that the existing steel portal frame and roof is in excellent condition and requires no further structural elements for conversion to a dwelling. Further to this, the appellant has submitted to the appeal a Structural Inspection Report (SIR) undertaken by a qualified structural engineer which confirms that the primary structure of the barn is suitable to be retained in the conversion to domestic living accommodation.
13. The proposal would utilise the existing roof and wall cladding, the purlins, primary steel frame and concrete floor slab without modification. Within the existing footprint of the building, a new insulated timber studwork wall lining would be constructed, and the existing concrete floor would be overlain with a damp-proof membrane, insulation and screed. The metal roof cladding would be cleaned, insulated and retained. The proposal includes new window and door openings to all the elevations and a sliding timber slatted screen to replace the existing steel doors.
14. The Council contends that no evidence has been submitted in relation to the loading capability of the existing barn or evidence in relation to its foundations, particularly given the significant extent of glazing and conversion works proposed. However, the SIR indicates that the existing concrete floor is in good condition and has been subject to loading significantly higher than domestic residential loading. Furthermore, no additional floors are proposed that could increase the anticipated loading for the foundations. The new windows and doors would be supported by the new timber framed walls within the barn and will not require modification of the existing primary structural frame of the barn. Furthermore, strengthening of existing foundations does not fall within the building operations listed under paragraph Q.1. of the GPDO and, according to the SIR, this would not be required.
15. In response to the appellant's criticism that the Council has not provided any compelling evidence to the contrary, the Council contends that it is not required to provide evidence to explain the refusal of the prior approval citing paragraph W, Part 3 of the GDPO which states that "The local planning authority may refuse an application where, in the opinion of the authority— (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions." However, this is a moot point given the SIR considers the floor slab is suitable to be retained and that the primary structure of the barn requires no structural changes to enable it to be converted to a dwelling.
16. The Planning Practice Guidance (PPG) states that 'internal works are not generally development. 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.'

Thus, the inner timber framed walls within the barn would not be considered development.

17. Contrary to paragraph 3.8 of the Council's statement, the scheme has been designed with windows to the elevations and the evidence indicates that the fenestration would be supported by the proposed building works. The proposal includes new window and door openings to all the elevations and a sliding timber slatted screen to replace the existing steel doors. While this would alter the building's outer fabric, such alterations would be reasonably necessary to convert the building to residential use. Work permitted within Class Q can include the installation or replacement of windows, doors or exterior walls.
18. The PPG states 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.' Based on the evidence before me, I am satisfied that the barn is structurally sound and would form an integral part of the new dwelling. The proposed building operations would not require modification of the existing primary structural elements. I find that the proposed works are reasonably necessary to convert the building, thereby complying with the GDPO and PPG.
19. Given my findings above in respect of the new building work required to facilitate the residential use of the building, as a matter of fact and degree, I find that the circumstances in the Hibbitt¹ case are not directly comparable to the appeal proposal.
20. The Council has drawn my attention to appeal decision APP/R3325/W/22/3308359. This decision relates to a barn with two large openings to the building envelope on its entire southeast gable and part of its northeast side. The floor is described by the Inspector as "little more than compacted chalk above hardcore." The internal works would be substantial including floor slabs throughout, and the external works would involve entire new walls where there are none. This differs to the proposal before me which has shown that the building is structurally sound and contains an existing concrete floor and fully enclosed walls. In any event, my decision is based on the individual circumstances of this appeal.
21. To conclude on this main issue, the building is already suitable for conversion to residential use and the proposed building operations would be reasonably necessary to convert the building to a dwellinghouse. As such, this part of the proposal would constitute permitted development as set out under Schedule 2, Part 3, Class Q of the GPDO.

Design and External Appearance

22. While the Decision Notice refers to conflict with Part Q.2, the Officer Report states that the proposal "is not overly harmful to the rural character of the area." Furthermore, the Council's appeal statement indicates that "there is no concern in respect of the design or external appearance of the building with regard to its visual landscape impact." Therefore, it is unclear how the proposal would adversely affect the design or external appearance of the

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

building, particularly as the Council raises no concern with respect of the design or external appearance of the building.

23. The existing building has a plain, functional and utilitarian design, typical of structures on farms and in rural areas. The proposed conversion would retain the building's existing external cladding and would not extend the external dimensions of the barn. The addition of new doors and windows would be reasonably necessary for the building to function as a dwellinghouse, an alteration permitted by virtue of Class Q.
24. The proposal would introduce areas of glazing, however the size and shape of the existing opening would be utilised for the glazing, and the design and size of new openings would complement the existing barn. The building operations would not introduce any ornamentation or overt domestication of the building.
25. Furthermore, the external roof and wall cladding would be retained, allowing the building to maintain its utilitarian agricultural character and hence blend well and remain in harmony with its rural surroundings.
26. Consequently, the proposal would give the appearance of a cohesively designed, sensitively converted rural building which would be in keeping with its countryside location.
27. In conclusion on this matter, the design and external appearance of the building would be acceptable. As such, the proposed development would satisfy paragraph Q.2(1)(f) of the GPDO.

Other Matters

28. The Council raises no concerns in relation to the prior approval matters Q.2(1)(a) to (e) and (g) which relate to transport and highways, noise, contamination, flooding risks, location or siting and the provision of adequate natural light in all habitable rooms. Based on my observations on site and the information before me, I have no concerns in respect of the above matters. Therefore, the proposal would comply with these other matters considered under Class Q.2.

Conditions

29. Any prior approval and planning permission granted for the development under Article 3(1) and schedule 2, Part 3, Class Q of the GPDO is subject to the condition under Q.2 (3) which specifies that the development shall be completed within a period of 3 years starting with the prior approval date. A condition relating to the commencement of development is therefore not necessary.
30. Paragraph W. (13) provides for additional conditions reasonably related to the subject matter of the prior approval. I have had regard to the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. I have also had regard to the tests in the Framework, the PPG and the GPDO.
31. The suggested condition relating to bat roosting features and bird nesting boxes is not a prescribed prior approval matter under Q.2(1). Hence, such a condition would not be reasonable.

32. A condition relating to car parking is necessary in the interests of highway safety. A condition relating to cycle parking is necessary in the interests of sustainable transport. These conditions are reasonable and necessary and are related to the prior approval matters.

Conclusion

33. For the reasons given above the appeal should be allowed and prior approval is granted.

U P Han

INSPECTOR