



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: 06 December 2024

Appeal Ref: APP/J1860/W/24/3344968

Moor Farm, Eardiston, Worcestershire WR15 8JJ

- 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 Mr Nick Denniston against the decision of Malvern Hills District Council.
 - The application Ref is M/24/00210/GPDQ, dated 27 February 2024, was refused by noticed dated 22 April 2024.
 - The development proposed is for change of use of an agricultural building to 3 dwellinghouses.
-

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) for change of use of an agricultural building to 3 dwellinghouses at Moor Farm, Eardiston, Worcestershire WR15 8JJ in accordance with the application M/24/00210/GPDQ, dated 27 February 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 condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, 4488-01, 4488-02C, 4488-03C, 4488-04B, Structural Appraisal on Barn at Moor Farm, Preliminary Ecological Appraisal Moor Farm, Barn Structural Survey, Flood Risk Assessment, Construction Method Statement Barn at Moor Farm and Sun Trajectory 4488-101.

Preliminary Matters

3. I have used the description of development in the Decision Notice as this is more accurate and concise than the description contained in the Application Form. However, I have omitted superfluous wording relating to the type of application.
4. The appellant submitted a Construction Method Statement (dated 18 May 2024) (the CMS) and a sun trajectory drawing with the appeal. These documents provide additional information but do not change the development

applied for. I am satisfied no party would be prejudiced by my taking them into account in my decision.

5. Under Article 3(1) and Schedule 2, Part 3, Class Q(b), 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 a building and any land within its curtilage from a 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 the limitations and conditions.
6. The Council may refuse the application where it considers that the proposed development does 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.
7. 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(i). Reason for refusal 2 was based on non-compliance with Q.2.1 (g) relating to the provision of adequate natural light to the proposed dwellinghouses. Reason for refusal 3 relates to the location and siting of the building making it otherwise impractical and undesirable to change from agricultural use to dwellinghouses, not complying with Q.2.1 (e). Reason for refusal 4 refers to non-compliance with Q.2.1 (f) relating to the design or external appearance of the building.

Main Issues

8. 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 dwellinghouses, and if found to be permitted development;
 - whether the proposal would provide adequate natural light to the ground floor bedrooms within the proposed dwellings; and
 - whether the siting and location of the building make it impractical and undesirable to change from agricultural use to dwellinghouses; and
 - the effect of the proposal on the design or external appearance of the building.

Reasons

Permitted Development

9. The appeal relates to an agricultural building comprising a single storey brick and timber structure with barrel roof of corrugated tin sheeting. The building consists of three distinct sections. The western section has large double timber doors set to an elevation comprising horizontal timber boarding and corrugated metal cladding to a timber frame. The other walls are brick built, with a brick chimney on the rear wall. There is a concrete floor, timber framing to the walls, and a vaulted corrugated metal sheeted roof over. A horizontal

timber beam is set at eaves level with metal rods that extend up to support the roof. This section of the building is used as a workshop for repairing and maintaining agricultural machinery.

10. The middle section of the building has full height double aluminium faced doors set in the centre of the north elevation. The walls to the elevation are formed with vertically set timber boarding which previously had window and doorway openings but are now infilled. There are several gaps in the timber walls which are open to the elements. The floor is part concrete and part dirt ground. Timber framing forms the walls with a vaulted corrugated metal sheeted roof over. Within this section of the building there is a flat top steel portal frame supporting four timber purlins. The side walls are formed in masonry. This section of the building is used for hay storage.
11. The eastern section of the building broadly mirrors that of the western section but is open fronted. It has a brickwork chimney against the rear wall of the room. The eastern elevation has a large opening in the corrugated metal which is framed by timber posts upon small concrete kneelers with a metal gate at ground level. There is a dirt floor and brick-built walls to three sides, with a vaulted corrugated metal sheeted roof over. A horizontal beam is set at the eaves level supporting metal rods which extend up to support the roof.
12. Along both sides of the building are overhanging lean-to roofs supported by timber posts which provide open fronted cover for storage of various agricultural equipment and items. A concrete slab is present beneath the monopitch lean-to storage area on the south. On the north side of the building, a concrete slab only extends about halfway beneath the lean-to with dirt finish to the remainder.
13. The appellant's submitted Structural Appraisal (dated 23 January 2024) (the SA) indicates that the building is in good structural condition and suitable for conversion to a dwelling, without the need for significant structural works. It notes that some areas of the building have a concrete slab floor, and some remain as dirt floor. It therefore recommends that the existing floors are removed, a damp proof membrane laid, and a new floor constructed.
14. The appellant has submitted a CMS which shows that the existing roof and brick and timber walls would be retained. New nonloadbearing insulated timber stud walls would be constructed within the building. The CMS and the appellant's appeal statement indicate that a new concrete floor would be laid to the proposed new levels.
15. 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.'
16. 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 building 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.

17. The Council has drawn my attention to the Hibbit¹ judgement in support of its case. However, I find that the circumstances in Hibbitt are not directly comparable to the appeal proposal.
18. 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 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(c) of the GPDO.

Light

19. The rear elevation of the building faces the residential curtilage of Moor Farm House which is in separate ownership to the appeal site. The boundary treatment between the appeal site and Moor Farm House consists of a mixture of evergreen, trees shrubs and plants. Moor Farm House is set away from the boundary and orientated to the north west with a large driveway to the front and garage to side. 8 windows proposed on this elevation of the barn would serve habitable rooms and would be around 2.7 metres from the boundary hedge.
20. The Council contends that the occupiers of Moor Farm House would be likely and able to erect a boundary fence to prevent views into their garden thereby significantly reducing light to the habitable rooms of the proposed dwellings. Views of the rear garden of Moor Farm are largely obscured by a combination of its own outbuildings which are close to the boundary of the appeal site and the vegetation that exists along the boundary. Indeed, the occupiers of Moor Farm point to how the appeal building is currently screened from views of their property by the existing planting. The occupiers of Moor Farm are concerned that if the proposal was granted approval, they would be required to reduce the trees and bushes thereby effecting their privacy. However, this would not be a reasonable or necessary planning condition of any approval. While the occupiers of Moor Farm could erect a fence along the boundary, it is supposition by the Council that they would do so. Even if the occupiers of Moor Farm were to erect a fence, it would not significantly reduce the amount of light compared with the height and density of the existing vegetative boundary.
21. Despite the proximity of the rear elevation to the existing hedge boundary, the appellant has shown that the windows to the elevation would receive adequate light. The submitted drawing² shows the tracking of the sun from east to west in relation to the proposal which demonstrates that the southern elevation within which the windows are situated would receive the maximum amount of daylight during the day. Furthermore, the existing lean-to roof which runs along the entire length of the rear elevation would be removed, allowing for more light to be received by the windows.

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

² Sun Trajectory 4488-101

22. To conclude on this matter, the proposal would provide adequate natural light to the ground floor bedrooms within the proposed dwellings. As such, it would satisfy paragraph Q.2(1)(g) of the GPDO.

Siting and location

23. The example given in the PPG of 'impractical' is an agricultural building on top of a hill with no road access, power source or other services. Examples of undesirable locations given in the PPG are those adjacent to intensive poultry farm buildings, silage storage or buildings with dangerous machines or chemicals. The existing building has power and access to other utility services. It shares a vehicular access with Moor Farm House which is accessed from Mill Lane. Consequently, the location of the proposal is not impractical or undesirable within the context of the PPG.
24. The appeal building is sited within a working farm. However, the main operational part of the farm is to the north of the appeal site. There is a single storey brick-built structure directly opposite the appeal building which is used for the storage of hay. The appellant's appeal statement indicates that this would no longer be used in connection with the activity of the farm should approval be granted for the proposal.
25. The east elevation of the appeal building is directly adjacent to a field where, on the day of my visit, around two dozen sheep were roaming. The operation of the farm is not considered intensive. Furthermore, the appellant seeks to reduce the activity and livestock at the farm.
26. While future occupants could potentially be affected by noise and mud associated with the activity of the farm, this would not render the siting and location of the proposal impractical and undesirable within a reasonable ordinary dictionary meaning of the words as set out by the PPG.
27. As such, and in conclusion on this matter, the location and siting of the proposal is acceptable and not considered impractical and undesirable for change from an agricultural use to dwellinghouses. As such, it would satisfy paragraph Q.2(1)(e) of the GPDO.

Design or External Appearance

28. The Council suggest that the design would incorporate a significant amount of new material which has not been specified on the plans such as rendered blockwork which would not be acceptable for an agricultural conversion in a rural location. However, the appellant points to the Council's misinterpretation of the plans and has confirmed that all the existing external brick and timber walls would be retained and no blockwork would be used.
29. While all the windows would be replaced with new openings of a different size to the original, the design and size of new openings would complement the existing building. The large windows proposed on the side elevations would reflect the position and size of the existing openings. 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.
30. The existing building has a simple, functional and utilitarian design, characteristic of farm and rural structures in the area. The proposed conversion would retain the building's existing roof and external walls and

would not extend the external dimensions of the barn. The proposal would not introduce any ornamentation or excessive domestication of the building. This would allow the building to maintain its functional agricultural character and remain in keeping with the site and surrounding area.

31. Consequently, 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

32. The Council raises no concerns in relation to the prior approval matters Q.2(1)(a) to (d) relating transport and highways, noise, contamination and flooding risks. 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.
33. A neighbour has raised concerns about the proposed increased height of the windows due to the proposed raising of the internal floor level of the building and the impact this would have on their privacy. Under Class Q, privacy is not a prior approval matter for consideration. Notwithstanding this, the appellant confirms that the windows would not be raised as a result of the proposed finished floor level.

Conditions

34. 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. I have also attached a condition requiring development to be carried out in accordance with the approved plans, in the interests of certainty.

Conclusion

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

U P Han

INSPECTOR