



Appeal Decision

Site visit made on 25 November 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th January 2025

Appeal Ref: APP/P1045/W/24/3342866

Stoneleigh Farm, Derby Lane, Cubley, Derbyshire DE6 2EY

- 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 Clive Vernon c/o Meadowhay Promotions against the decision of Derbyshire Dales District Council.
 - The application Ref is 24/00021/PDA.
 - The development proposed is for conversion of agricultural building to 3no. smaller dwellinghouses (use class C3) and associated building operations.
-

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 conversion of agricultural building to 3no. smaller dwellinghouses (use class C3) and associated building operations at Stoneleigh Farm, Derby Lane, Cubley, Derbyshire DE6 2EY in accordance with the application, Ref 24/00021/PDA made on 5 January 2024, and the details submitted with it including plan no's 2311-CQ105-P01 (Building 2), 2311-CQ105-P03, 2311-CQ105-P04 and 2311-CQ105-P05, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q, paragraph Q.2(3) and subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Clive Vernon against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since there was no description of development on the application form, I have taken the one from the appeal form which has also been used on the Decision Notice.
4. The appeal proposal is described as the conversion of an agricultural building to 3no. smaller dwellinghouses, this is also referenced on the decision notice. Nevertheless, the appeal statement refers to the conversion of two agricultural buildings, one of which has had approval granted previously for 2no larger dwellinghouses (Ref: 22/00931/PDA). I have sought clarification from the appellant on this matter, they have confirmed the appeal is to focus solely on the agricultural building proposed to be converted into 3no smaller dwellinghouses. I have proceeded to determine the appeal on this basis.

5. On 21 May 2024, Statutory Instrument 2024 No 579 (SI) came into force amending Article 3(1), Schedule 2, Part 3, Class Q of the General Permitted Development Order (the GPDO). I am however required to determine this appeal in accordance with the GPDO provisions that were in force at the time that the original application was submitted in January 2024. All references to the GPDO in this decision therefore relate to the version that was in force at that time.
6. The application was made 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. This permits development consisting of: (a) 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) of the Schedule to the Use Classes Order; and (b) building operations reasonably necessary to convert the building referred to in paragraph Q(a). Details have been provided pursuant to Class Q(a) and Class Q(b).
7. The Council considered that the proposal did not accord with the curtilage size requirements set out in Paragraph X of the GPDO. In the Council's statement of case, they have confirmed that this reason for refusal has fallen away due to a calculation error. From the submitted information, I am satisfied that the proposal accords with the curtilage requirements set out in Paragraph X.

Main Issues

8. The main issues in the appeal are:
 - whether the proposal would constitute permitted development as defined under Schedule 2, Part 3, Class Q of the GPDO, and;
 - if the proposal is found to constitute permitted development, whether it would accord with the conditions of Schedule 2, Part 3, Class Q of the GPDO with respect to the design or external appearance of the building.

Reasons

Whether permitted development

9. The appeal building is a chicken shed in a former egg production farm surrounded by further agricultural buildings. The building consists of a timber frame with low level concrete blockwork with wall cladding comprising of timber tongue and groove. The roof is clad in metal corrugated sheets.
10. The Council consider that the proposed building operations go beyond the extent reasonably necessary for the building to function as a dwellinghouse, as well as the partial demolition.
11. Paragraph Q.1(i) of the GPDO permits the installation or replacement of windows, doors, roofs or exterior walls to the extent reasonably necessary for the building to function as a dwellinghouse and partial demolition to the extent reasonably necessary to carry out such works. The Planning Practice Guidance (PPG) provides further guidance in this regard, establishing 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. As the Council point out, the Hibbitt case¹ clarified that a conversion of an agricultural building can constitute permitted development, but a rebuild cannot. Whether the proposal constitutes a conversion or rebuild is a matter of planning judgement.

12. The appellant has included a structural assessment. This concluded that the existing structure is sufficient to accommodate the conversion into residential units. The existing timber frame and concrete base would be retained and the plans also show the low level concrete block walls would remain with the exception of where the door openings would be and where the building would be divided. The existing roof and wall cladding would be replaced with insulated corrugated roof sheets and cement based wall cladding with insulation fixed to the inside. The structural statement sets out that the new roof cladding would result in no nominal increase in load on the existing structure.
13. The conversion would result in the demolition of two small sections of the existing roof and walls to create three detached dwellings. This would allow for new exterior walls to be created which would form gable walls for the three detached dwellings. Sections of the roof would also be inset to allow for head height access. None of the existing timber frame would be removed, but would be incorporated into the proposal. I note that the Council consider the extent of demolition goes beyond what they consider necessary for the building to function as a dwellinghouse, However, that is not the wording used in the GPDO.
14. Paragraph Q.1(i)(ii) of the GPDO allows for partial demolition to the extent necessary to carry out building operations allowed by paragraph Q.1 (i)(i). Paragraph Q.1(i)(i) allows for the installation of windows, doors, roof or exterior walls, as well as replacement. Whilst cumulatively the works would appear to be extensive, the removal of the walls and roof would be reasonably necessary to allow for the installation of the proposed exterior walls. New windows, doors and rooflights would also be installed. In my view, the extent of these are not excessive, and would not go beyond the extent necessary for the building to function as a dwellinghouse. While there would be a large amount of demolition and removal of the existing roof and cladding, the proposed dwellings would be formed using the existing structure and foundations of the agricultural building and thus I consider it would fall within the remit of a conversion and not a rebuild.
15. Furthermore, my attention has been drawn to a number of appeal decisions relating to Class Q, which have allowed for the partial demolition of agricultural buildings. Whilst each case must be considered on its own merits and site specific circumstances, on the evidence before me, I consider that there are parallels with the proposal before me. Of particular note is an appeal in Staveley², where the Inspector considered that the demolition of the central part of the existing building to create two dwellings, fell within the scope of Paragraph Q.1(i). Whilst the structural report in that appeal appears more comprehensive than this appeal, it does not alter my view that the erection of the exterior walls would be reasonably necessary for the building to function as a dwellinghouse. Moreover, the Council has raised no specific concerns in

¹ Hibbitt v Secretary of State for Communities and Local Government [2016] EWHC 2853 (Admin)

² Ref: APP/E2734/W/17/3181890

relation to the information contained within the structural assessment that was submitted in this case.

16. The Council is satisfied that the proposal complies with the other restrictions and limitations specified in Paragraph Q.1. Based on the information provided, I have no reason to take a different view.
17. In conclusion, I find that the proposed conversion of the agricultural building into 3 dwellinghouses would not conflict with Paragraph Q.1(i) of the GPDO and would constitute permitted development as set out under Schedule 2, Part 3, Class Q of the GPDO.

Design and external appearance

18. Paragraph Q.2(1) requires the local planning authority to consider whether its prior approval will be required as to a number of matters, including the design or external appearance of the building.
19. The Council consider the design and external appearance would be detrimental to the character and appearance of the existing building and surrounding area.
20. The site is in a discrete location not visible from wider viewpoints, set behind extensive mature planting on the boundary. The existing building has black timber tongue and groove cladding and metal corrugated roofing, utilitarian in appearance and reflective of the surrounding area. The proposed replacement grey corrugated roof sheets and black cement based tongue and groove cladding would closely reflect the materials of the existing agricultural building.
21. Whilst the building would be broken up into three separate dwellings and part of the roof inset, I find that the low pitched roof form and overall massing of the dwellings would still retain the character of the original agricultural building and not that of a domestic bungalow.
22. Therefore, on this issue I am satisfied that the design and external appearance of the proposed development would be appropriate for its setting and would not be detrimental to the character and appearance of the existing building or surrounding area. The scheme would therefore be acceptable in regard to this matter for which prior approval is required.

Other Matters

23. The Parish Council have raised concerns about additional traffic and that the entrance to the site is currently used as a passing point on Derby Lane. Given the scale of the development I am not persuaded that significant traffic and associated wear and tear to the road would be generated. Whilst noting that the entrance to the site may act as a useful passing point to allow traffic to pass, it is already an existing access point into the site and not a formal pull in point. Furthermore, the Highways Authority have raised no objection to the proposal, subject to securing the carparking.
24. The Parish Council also raise concerns regarding the space provided within each of the three dwellings. However, under Class Q a smaller dwellinghouse, as applied for, must not have a floorspace greater than 100 square metres. Given that each of the dwellinghouses would have a gross internal area of 99 square metres it would meet the floorspace requirements set out under the

GPDO. The size of each of the rooms provided is not a matter for consideration under Class Q.

25. Subject to certain conditions which I address later in the decision, and notwithstanding the comments raised by the Parish Council, the Council does not raise any objections in relation to the other provisions set out in paragraph Q.2(1) in relation to the transport and highways impacts of the development, noise impacts of the development, contamination risks on the site, flooding risks on the site, whether its location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling and the provision of adequate natural light. Based on the information before me and my site observations, I have no reason to take a different view.

Conditions

26. Paragraph W.(13) of the GPDO allows conditions to be imposed that are 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. I have also had regard to the tests in the National Planning Policy Framework and relevant elements of the PPG. The additional conditions are set out in the schedule at the end of this decision.
27. Paragraph Q.2(3) of the GPDO stipulates that development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. A condition relating to the completion of development is therefore not necessary.
28. Given I have listed the submitted plans in my decision and Paragraph W.(12) of Schedule 2, Part 3 of the GPDO 2015 requires development to be carried out in accordance with the details approved, the Council's suggested plans condition is unnecessary and has not been imposed.
29. I have imposed a condition requiring details of the windows, doors and external materials as these are relevant to the design and external appearance of the building and are also specifically referenced in paragraph Q.1 (i)(i) of the GPDO. I have omitted the requirement for details related to rainwater goods as I do not consider this necessary for the matters in hand.
30. I consider it reasonable and necessary to impose a condition securing residents parking for the lifetime of the development to ensure highway safety.
31. I have not imposed conditions relating to hard and soft landscaping within the resident curtilages because of their limited extent, furthermore I do not consider this reasonably related to the subject matter of the prior approval and thus find the conditions unnecessary.
32. The appellant has confirmed that with the exception of building one which has extant permission for conversion to two dwellinghouses, the remaining four agricultural buildings close to the appeal building will be demolished. This is to alleviate concerns that the remaining agricultural buildings could be re-operationalised into a chicken farm, which given their proximity to the appeal building would make the conversion undesirable. It is therefore reasonable to impose a condition requiring these buildings are demolished before occupation

of the development. I have omitted the requirement, following demolition of the buildings to return the land to agricultural use. There is nothing before me to suggest that this would not be the case. Therefore, I deem that this part of the condition would not be necessary.

Conclusion

33. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted subject to conditions.

T Bennett

INSPECTOR

Schedule of Conditions

1) Prior to installation, the following details shall be submitted to and approved in writing by the Local Planning Authority:

- details of the roof and wall cladding;
- details of all window and door frames, to include their materials and colour and cross section details (at a scale of 1:5) detailing their proposed positioning in the openings, and
- details of all doors to include their materials and colour

The conversion shall be carried out in accordance with the approved details.

- 2) The development hereby permitted shall not be occupied until vehicle parking areas have been provided in accordance with the approved plans. Thereafter, during the lifetime of the development, those areas shall be retained for the parking of vehicles only.
- 3) The development hereby permitted shall not be occupied until the demolition of the agricultural buildings as detailed on the proposed site plan has been completed.

****End of conditions****