



Appeal Decision

Site visit made on 9 December 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th January 2025

Appeal Ref: APP/A4710/W/24/3350414

Lower Birkhouse Farm, Birkhouse Road, Bailiff Bridge, Brighouse HD6 4JL

- 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 Harrison against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref is 24/56009/CLAS3Q.
 - The development proposed is application to determine if prior approval is required for a proposed: Change of Use of Agricultural Buildings to Dwellinghouses (Use Class C3), and for building operations reasonably necessary for the conversion.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the decision notice as it more succinctly describes the proposal.
3. Although the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) has been amended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024/579, as the case was submitted to Calderdale Metropolitan Borough Council prior to 21 May 2024, I have decided it on the basis of the old Class Q within the GPDO. I do however acknowledge that the Council determined the application on the basis of the amended GPDO.

Background and Main Issue

4. Under the GPDO, Class Q (a) allows change from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Use Classes Order. This is not in dispute. Rather it is in dispute whether the proposal would comply with the provisions under Class Q (b) in relation to building operations other than those permitted under Class Q.1 (i) (i) (aa) or (bb), to the extent they are reasonably necessary for the building to function as a dwellinghouse.
5. The main issue is therefore whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO, having regard to the extent of the building operations necessary for the building to function as a dwellinghouse and whether the design or external appearance of the building would be acceptable.

Reasons

6. The appeal building is a detached barn in the centre of an agricultural field, with an access route from a gate on Birkhouse Road. The building consists of a pitched roof steel portal frame with precast concrete and hit and miss timber boarded external walls.
7. The existing agricultural building would be retained as part of the proposal, including its overall form and scale. The appellant's structural report, submitted with the appeal, indicates that the existing structural form and the load bearing elements of the building are suitable for conversion and that the walls are stable but would need to be overclad or internally protected by a suitable thermal structural walling system to be suitable for residential use.
8. The proposed repair and replacement of the external walls and roof would fall within the scope of Class Q.1(i)(i)(aa), which allows for the installation or replacement of roofs and exterior walls. Consequently, the external works to the walls and roof would neither represent a new building nor rebuilding of the structure. In making this determination I have had regard to the Judgment handed down in Hibbitt¹.
9. In addition to the above, the GPDO also sets out that new and replacement windows can be installed to the extent they are reasonably necessary for the building to function as a dwellinghouse. The proposal would include a number of large windows at both the ground and first floor levels, on all elevations, as well as a balcony to the first floor. Whilst I accept that windows are necessary to allow light into the building and that they utilise the existing structure of the building, the excessive amount of glazing, including alterations to the roofscape to form the balcony, would not be reasonably necessary for the building to function as a dwellinghouse.
10. The conditions set out in paragraph Q2(1)(a) to (g) relate to details of the proposed development, including transport and highways, noise, contamination, flooding, location or siting, design or external appearance, and the provision of natural light in all habitable rooms. The Council has assessed the proposal against the criteria and is satisfied that they are met with the exception of the design and proposed external appearance.
11. The agricultural building is set at a higher level than Birkhouse Road and is prominent in views in the surrounding landscape. The design of the proposal includes large windows and a balcony which would be incongruous in the rural setting and visually impact the local street scene. The design and external appearance would therefore not comply with the conditions set out in the GPDO.
12. The Council would also require the access track to be of a sealed and bound surface and permeable hard surfacing for the car park area. If I was minded to allow the appeal these matters could be dealt with by conditions.

Other Matters

13. I have had regard to the proposal for a change of use of agricultural buildings to dwellinghouses at Park Lane. Whilst there are some similarities with the appeal proposal the amount of glazing would be less than the proposal before

¹ Hibbitt v. SSCLG [2016] EWHC 2853 (Admin).

me and there would not be a balcony. In any event I have determined the appeal on the site-specific circumstances of the case before me.

Conclusion

14. For the reasons given above the appeal should be dismissed.

H Senior

INSPECTOR