Planning Inspectorate

Appeal Decision

Site visit made on 28 January 2025

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th February 2025

Appeal Ref: APP/P2935/W/24/3351502
Shaws House Farm, C251 Shaws House to Newton Hall, Newton, Stocksfield

- 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 Ben Kibler against the decision of Northumberland County Council.
- The application Ref is 24/00769/AGTRES.
- The development proposed is the change of use from agricultural building to residential.

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) (GPDO) for the change of use from agricultural building to residential at Shaws House Farm, C251 Shaws House to Newton Hall, Newton, Stocksfield in accordance with the terms of the application, Ref 24/00769/AGTRES, subject to the conditions in Paragraph Q.2(3) of Schedule 2, Part 3, Class Q of the GPDO in that development must be completed within a period of 3 years from the date of this decision, as well as the provisions specified in paragraph W and the following conditions:

    1) Prior to the occupation of the development hereby permitted, the access shown on Existing Plans and Proposed Site Plan Rev B shall be implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The arrangements shall be retained as such thereafter.

    2) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, development on the affected part of the site shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Should no unexpected contamination be found, this shall be confirmed in writing to the local planning authority prior to the occupation of the development hereby permitted.

Preliminary Matters

2. The description of development above is taken from the decision notice, omitting wording that is not an act of development, as this succinctly describes the proposal. The above legislative provisions were updated on 21 May 2024. However, due to transitional arrangements, I am required to determine this appeal in accordance with those that were in force at the time the original application was submitted. All references to the GPDO in this decision therefore relate to the version that was in force at that time.

Background and Main Issues

3. Schedule 2, Part 3, Class Q of the GPDO permits the change of use of agricultural buildings to dwellings. Sub part (a) refers to the change of use and (b) the building operations reasonably necessary for the conversion. Paragraph Q.1 goes on to set out several limitations of Class Q. The appeal relates to a change of use of an agricultural building to a dwelling. The Council contend that the proposed works go beyond what is reasonably necessary to convert the buildings and so would not be permitted development. No consideration was given to the prior approval matters listed in GPDO paragraph Q.2(1).

4. While the site is located within the Green Belt, as the principle of development is not for consideration, the question of whether or not the proposal represents inappropriate development in the Green Belt does not arise. Consequently, the main issues are:

- whether the proposed development would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to whether the extent of the proposed works would be reasonably necessary to convert the buildings to dwellings; and

- if permitted and not excluded under Class Q, whether the prior approval details would be acceptable.

Reasons

Whether permitted development

5. The appeal site is located in the open countryside and accommodates a portal frame farm building with one open side. The building consists of precast concrete columns, enclosed on three sides by corrugated sheets and a concrete retaining wall, with a corrugated roof covering.

6. GPDO paragraph Q.1(i) states that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.

7. The Planning Practice Guidance (PPG)[1] advises that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, the PPG is clear that it is not the intention of the permitted development right to allow rebuilding work that would go beyond what is reasonably necessary

[1] Paragraph 105 Reference ID: 13-105-20180615

for the conversion of the building to a residential use. It is only where the existing building is already suitable for conversion to residential use that the building would be considered to benefit from the permitted development rights.

8. Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement. Both parties have drawn my attention to the Hibbitt Judgment[2], which is also referenced in the PPG. Hibbitt related to the conversion of an agricultural building that was open to all four sides and the judgment considered whether the works required to bring about the change of use amounted to a re-build or 'fresh' build as opposed to a conversion.

9. The Building Condition Survey Report (2023) identifies the main structure of the appeal building to generally be in a very good condition. Remedial works are suggested for the pre-drilled holes in the concrete columns which would involve cleaning the holes out and treating and filling with a suitable waterproof grout material. Minor grout filling may also be required between the columns and the precast haunched rafters which are otherwise to be retained. Given their nature and extent, the proposed repairs do not amount to significant structural work, and it is not disputed that the concrete portal frame structure would remain as the main structural element of the proposal. From my observations and taking account of the evidence presented, I have no clear reason to find otherwise that the existing building is suitable for conversion.

10. The overall form and scale of the existing agricultural building would be retained with modest redesign and remodelling to facilitate its conversion. The Proposed Elevations Barn A Rev B plan shows that the works would include the installation and replacement of the exterior walls, the installation of new openings and the replacement of the roof panels. Class Q.1(i)(i) (aa) allows for the installation or replacement of roofs, openings and exterior walls and so the proposed works would be within the scope of Class Q. Taking this and my own observations into account, the works would be reasonably necessary to make the building weatherproof and suitable for human habitation.

11. Consequently, notwithstanding that the building has one open side and the external walls and the roof materials are to be replaced, the proposed works would neither represent a fresh new build nor rebuilding of the existing structure. Therefore, while the principles established within the Hibbitt Judgment are relevant, I do not see sufficient similarities between that case and the appeal scheme.

12. Accordingly, to conclude on this main issue, I find that the proposed works would be reasonably necessary to convert the agricultural building to a dwelling and would not exceed the limitations set out in GDPO paragraph Q.1(i). As such, the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Prior approval matters

13. GDPO Paragraph Q2(1)(a) to (g) relates to prior approval details, including highways, noise, contamination, flooding, location or siting, design or external appearance, and the provision of natural light in all habitable rooms. Although the

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

Council had not assessed these elements during the determination of the planning application, I note that no objections were raised in relation to Class Q.2(1) matters within the Council's appeal submissions. Based on my observations and the consultation responses received during the application stage, there is no evidence before me to conclude that prior approval should not be forthcoming.

Conditions

14. GDPO Paragraph Q.2(3) states that development under Class Q is permitted subject to the condition that it must be completed within a period of three years starting with the prior approval date. Further standard conditions are set out, including at paragraph W.(12) which requires development to be undertaken in accordance with the details provided in the application. As such it is not necessary to impose a plans condition as these are listed in the decision.

15. Paragraph W.(13) allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. The current access to the site is in a poor condition, as such in the interest of highway safety, it is necessary to impose a condition to ensure an appropriate access is achieved. Notwithstanding that the appellant indicates that the proposed change of use is highly unlikely to pose significant contamination risks, given the use of the land, in the interest of safeguarding the living conditions of future occupiers it is necessary to impose a condition to address the risks associated with any unexpected contamination.

Conclusion

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

F Harrison

INSPECTOR