



Appeal Decision

Site visit made on 8 April 2025

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2025

Appeal Ref: APP/D3125/W/24/3352062

Fir Tree Farm, Barnard Gate, Witney OX29 6XE

- 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 and Mrs Kirk against the decision of West Oxfordshire District Council.
 - The application Ref is 24/01095/PN56.
 - The development proposed is the conversion of an agricultural barn to a dwelling house.
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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) for the conversion of an agricultural barn to a dwelling house at Fir Tree Farm, Barnard Gate, Witney OX29 6XE in accordance with the application 24/01095/PN56. 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 (4) of the 2015 GPDO and the conditions in the attached schedule.

Background and Main Issue

2. Article 3, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits the change of use of a building and land within its curtilage from an agricultural use to a use falling within use class C3 (dwellinghouses). Class Q also allows building operations reasonably necessary to convert the building to a dwellinghouse use, subject to various clauses and conditions, including a requirement for an application to be made to the local planning authority as to whether prior approval is required on various matters before beginning the proposed development.
3. The main issue is whether the proposal would be permitted development under Article 3, Schedule 2, Part 3, Class Q of the GPDO, with particular regard to whether the extent of the works proposed would go beyond those permitted under Class Q.

Reasons

4. Class Q (a) and (c) of the GPDO permit the change of use of the building, together with building operations reasonably necessary to convert the building to a use falling within Class C (dwellinghouses). In addition, the GPDO at paragraph Q.1 (j) states that development is not permitted by Class Q 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.

5. Further to the building operations set out in paragraph Q1 (j) Planning Practice Guidance (PPG)¹ advises that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. It sets out 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. In addition, the PPG sets out that internal works are not generally development, and that for the building to function as a dwelling it may be appropriate to undertake internal structural works, including internal walls, which are not prohibited by Class Q.
6. What may constitute 'reasonably necessary' is not defined in either the GPDO or the PPG. It is established caselaw² that the building must be capable of conversion to residential use without operations amounting to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. Whether the extent of work required would comprise conversion or rebuild is therefore a matter of planning judgement.
7. The appeal building is a conventional steel framed structure with metal panelling to the walls and polyfibre cladding to the roof, sitting on a concrete slab. It benefits from large doors to each side elevation as well as a smaller pedestrian door. The proposal seeks to convert the building for use as a dwellinghouse comprising single storey accommodation, with associated building operations.
8. The existing portal steel frame and metal panelling to the walls would be retained, along with the polyfibre roof. New windows and doors would be inserted into new openings and the existing openings replaced with new smaller ones. Internal works would include new internal walls, insulation, services and finishes consistent with the conversion of the building to a dwellinghouse. The appellant's Structural Inspection Report by Structural Simplicity dated 6 October 2022 indicates that the existing steel frame is in good condition, and the structure overall, including foundations, is capable of supporting the likely additional loads. As such, the barn would require minimal alterations to its existing superstructure to enable its conversion to a dwelling.
9. Given the extent of the works proposed and noting that the existing external fabric of the building would be retained, I do not consider that the building operations would exceed what could reasonably be regarded as a conversion. Accordingly, based on the information before me, and having regard to paragraph Q.1.(j) of the GPDO, the proposed works would comprise building operations reasonably necessary for the building to function as a dwellinghouse. Consequently, the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

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

² *Hibbitt v SSCLG* [2016] EWHC 2853

Other Matters

10. Several previous appeals for the conversion of the agricultural barn to a dwelling have been dismissed. In the case of the first appeal the Inspector found that, given that nearly all the external fabric of the building would be replaced, combined with the extent of internal works, the works proposed to facilitate a residential use would go beyond building operations reasonably necessary to convert the building into a dwellinghouse. The proposed residential curtilage in that case also exceeded that permitted by paragraph X of the GPDO. In the second appeal the Inspector noted the limited information provided regarding the proposed building operations, which comprised a brief structural inspection report. She concluded that the cumulative extent of the works proposed to facilitate a residential use would be extensive, including the extent of replacement building fabric, and would go beyond what might reasonably be described as a conversion. A subsequent appeal, which also fell to me, was dismissed based on the extent of new material proposed to the walls and roof, and alterations to the steel frame, as shown on the submitted drawings, which was found to more akin to a rebuild.
11. The earlier proposals differed from the appeal scheme in terms of the level of information submitted in relation to the structural condition of the existing building and the extent of work proposed, including materials to be replaced. In particular, the appeal proposal before me now includes the retention of the existing external walls and roof, as well as the steel frame of the building. As such, while I have had regard to the preceding decisions, I have determined this appeal on the specific circumstances of the case and the evidence before me now.
12. While not referred to specifically in the refusal reason, the officer's delegated report sets out the Council's concern that the dining room would not benefit from the provision of adequate natural light. However, there is no substantive evidence that light coming into the kitchen window and infiltrating the dining area would not be sufficient to provide suitable living conditions for future occupiers of the dwelling.
13. The GPDO grants planning permission within specified parameters, therefore only matters relevant to the prior approval are to be considered when determining an application. While concern has been raised in relation to the effect of the proposed development upon water pressure at a neighbouring property, this is not a determining factor as to whether the appeal proposal is permitted development under the GPDO.

Conditions

14. Paragraph Q.2.(4) of the GPDO states that Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b) or (c), if any, must be completed within a period of 3 years starting with the prior approval date. Accordingly, it is not necessary to impose a time condition in this case.
15. Paragraph W (13) of the GPDO states that prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. A condition specifying the approved drawings is necessary for reasons of certainty. In addition, a condition to require detailed investigation and any necessary remediation in respect of land contamination, as suggested by the Council's Senior Officer Contamination is necessary given the use of the site for agriculture and would be related to one of the matters for which prior approval may

be required. This is a pre-commencement condition as it may affect the initial stages of the conversion works.

16. Flooding risks on the site is also a matter for which prior approval may be required, consequently a condition is imposed to ensure the provision of an appropriate surface water drainage strategy, as suggested by the Council's Consenting and Enforcement Engineer, to ensure surface water from the proposal is disposed of appropriately and does not exacerbate the risk of flooding elsewhere. Given that these details may be integral to the development, the condition is a pre-commencement condition.

Conclusion

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

E Worley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 01 A Location Plan and 06 A Proposed Plans.
- 2) Prior to the commencement of the development hereby approved a scheme for the drainage of surface water for the site, including a management and maintenance plan, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be completed in accordance with the approved details before the dwelling is first occupied and shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.
- 3) No development shall take place until a desk study has been produced to assess the nature and extent of any contamination, whether or not it originated on site, the report must include a risk assessment of potential source-pathway-receptor linkages. If potential pollutant linkages are identified, a site investigation of the nature and extent of contamination must be carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any significant contamination is found during the site investigation, a Remediation Scheme specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development begins.

The Remediation Scheme, as agreed in writing by the local planning authority, shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the local planning authority in advance of works being

undertaken. On completion of the works the developer shall submit to the local planning authority a Verification Report confirming that all works were completed in accordance with the agreed details. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

*******end of conditions*******