



Appeal Decision

Site visit made on 1 April 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th April 2025

Appeal Ref: APP/J0405/W/25/3358602

Burston Ridge Farm, Aylesbury Road, Wingrave, Buckinghamshire HP22 4RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Burston Ridge Farm Developments Ltd against the decision of Buckinghamshire Council.
 - The application Ref is 24/02324/COUAR.
 - The development proposed is Prior Notification (Part 3, Class Q) for change of use and conversion of existing agricultural barn into three dwellinghouses.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Burston Ridge Farm Developments Ltd against Buckinghamshire Council. This application will be the subject of a separate decision.

Background and Main Issues

3. 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 Order), development is permitted for the change of use of a building and any land within its curtilage, from 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 limitations and conditions.
4. On 21 May 2024, Statutory Instrument 2024 No 579 came into force amending Article 3(1), Schedule 2, Part 3, Class Q of the Order. The appellant has indicated that they sought consent under the Order as it stood prior to 21 May 2024. The Council considered the application on that basis and so shall I. All references to the Order in this decision therefore relate to the version that was in force prior to May 2024.
5. The main issues are:
 - whether the proposed development would constitute permitted development in respect to Class Q and paragraph Q.1(i); and, if the proposal is found to constitute permitted development, whether prior approval would be required and should be granted; and
 - the effect of the development on the Chilterns Beechwoods Special Area of Conservation (SAC).

Reasons

Whether the proposal constitutes permitted development

6. The appeal building is a simple Dutch barn comprising a metal frame with an arched sheet metal roof. One long elevation is completely open, the other is part metal cladding and part brick wall. One gable end is open to the lower half with metal cladding above. The other gable end is metal clad. The building sits between other buildings which have been given permission for conversion to residential use, either under Class Q or as full planning permission.
7. Paragraph Q.1(j) of the Order indicates that development 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. Planning Practice Guidance (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, and that it is only where the existing building is already suitable for conversion to residential use that it would be considered to have the permitted development right.
8. In addition, the PPG specifically refers to the case of *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)* (the Hibbitt case). This case has also been referred to by both main parties. Amongst other things, the Hibbitt case explored the distinction between works required for the conversion of an existing agricultural structure or building to a dwellinghouse, and works amounting to its rebuilding or, in effect, the creation of a new building. Ultimately Hibbitt set out that this distinction is a matter of legitimate planning judgement.
9. In the case before me, the appellants have provided a structural survey, dated 13 March 2024 (the structural survey) which was undertaken by Aspect Property Consultants and Surveyors Ltd. The structural survey concludes that the barn is generally sound, albeit with some storm damage and general deterioration due to age.
10. While I have no reason to dispute the findings of the structural survey, and no substantive evidence from the Council that challenges the appellants' structural findings, whether the level of works involved would constitute a conversion is a matter of planning judgement. Whether the existing building is already suitable for conversion to residential use, or whether the works amount to the creation of a new building, does not wholly depend on whether the existing structure is sufficiently robust to bear the loading proposed in any new works.
11. The existing metal cladding is, in areas, in a state of disrepair with holes visible across the roof, at both gable ends, and a section of cladding hanging off. The structural survey acknowledges that the roof cladding shows signs of surface corrosion and that the wall cladding is in poor condition with multiple sheets loose or missing. The areas of cladding requiring replacement, or repair, would be substantial and, based on my own observations, I am not convinced that only approximately 40% of the cladding would need to be replaced, as suggested by the appellant.

12. Class Q would allow for some replacement cladding but, given the findings of the Hibbitt case, it would not allow for complete replacement of all of the cladding, as the appellant asserts.
13. Moreover, the open sections of the building would require the construction of new walls which, although permitted by the Order, would predominately comprise new structural elements. The extent of these structural elements is significant due to the lack of and condition of the existing walls. Consequently, it is my judgement that the current building is not capable of functioning as a dwelling and is, therefore, not capable of conversion.
14. I viewed the brick building and the timber building either side of the Dutch barn while at site. From my observations the brick building and the timber building are both more substantial buildings with a greater extent of existing walling and roofing that would be retained and re-used to enable conversion. While both the brick and timber building would need similar amounts of replacement roof sheeting, the majority of the cladding to the timber building was to be re-fitted. The brick building is open to one side; however, this side was to be infilled with glazed panels rather than a new structural wall. The remaining walls were to have localised repairs, but it was not suggested that there would be substantial replacement of the walls. Although the structural surveys for the brick and timber barns were not dissimilar to the structural survey for the appeal proposal, the building, subject of this appeal, is materially different and not of a similar condition to the brick or timber buildings either side.
15. The two other buildings on the wider site, which are currently being converted to residential use, were more modern agricultural buildings and, from the evidence before me, more structurally sound with usable external surfacing materials. Nevertheless, the latest consent for conversion of these was approved under a full planning permission rather than under Class Q. Consequently, the conversion of these is also materially different to the appeal before me.
16. I acknowledge that there is a reasonable expectation for consistency in the decisions of the Council and the appellant has referred to a number of other buildings that the Council has allowed as conversions under Class Q of the Order. However, although the appellant has provided a summary of the structural condition and a photograph of each building, the evidence before me as to why each of these were allowed by the Council is limited. Even having regard to the appeal costs decision at Hall Green Lane, I cannot be certain that any of the buildings detailed in the appellant's appendix 7, even with the additional information provided in the Final Comments, are of a similar condition to the appeal building and, some appear to be more capable of conversion.
17. The appeal proposal is also materially different to the appeal at Nether House Farm referred to by the appellant. Although that appeal included a sizable part of the structure being demolished the Inspector came to the view, based on the evidence and their own observations, that the works would not exceed what could reasonably be regarded as conversion.
18. The appeal before me has more similarities with the Hibbitt case where the existing structure was capable of taking the loading for new panels. Nevertheless, the judgment determined that the proposed works would not amount to conversion. Although there are similarities with Hibbitt, each case should be

determined on its own merits, having regard to the particular circumstances. In this case, I have considered the evidence before me and my own observations.

19. I, therefore, find that the works required to infill the open sections of the elevations, and to repair and replace sections of the existing frame, roof, and cladding, go beyond building operations that are reasonably necessary for the existing building to function as a dwelling. The existing building is not suitable for conversion. Indeed, while the proposed dwelling would retain the general appearance of the existing barn, including the metal cladding, I am satisfied in this instance that, having regard to the Hibbitt case, the proposal would be more akin to a partial rebuild and new building work, rather than a conversion.
20. For the above reasons, the proposed development falls outside the scope of permitted development rights under Class Q.1(i). Accordingly, the proposal would not be permitted development.

Whether prior approval is required and should be granted

21. The conditions set out in paragraph Q2(1)(a) to (g) relate to certain details of the proposed development, including transport and highways, noise, contamination, flooding, location or siting, design or external appearance, and the provision of adequate natural light. Given my findings above I have not assessed the proposal against Q2 of the Order.

Effect on SAC & SSSI

22. The appeal site lies within the zone of influence for the Chilterns Beechwoods Special Area of Conservation (SAC). The appeal scheme would result in a net increase in residential accommodation which could result in adverse effects upon the integrity of the SAC through increased recreational pressure.
23. Although the effect of the development on the SAC was not included as a reason for refusal and was only raised by the Council at the appeal stage, as the competent decision-making authority, if I had been minded to allow the appeal, I would need to examine these matters further and undertake an Appropriate Assessment of the implications of the appeal scheme upon the SAC.
24. However, as I am dismissing the appeal on the other main issue, the outcome of an assessment would have no bearing on the overall outcome of the appeal. Therefore, it is not necessary for me to consider this matter further.

Conclusion

25. For the reasons given above, the appeal is therefore dismissed.

K Townsend

INSPECTOR