



Appeal Decision

Site visit made on 7 May 2025

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 28 May 2025

Appeal Ref: APP/E2205/W/24/3358227

Agricultural Buildings Named Dg Grinding, Biddenden, Kent TN27 8DH

- 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 Order).
 - The appeal is made by Mr and Mrs George and Sarah Choy against the decision of Ashford Borough Council.
 - The application reference is NOT/2024/1212.
 - The development proposed is prior approval for a proposed change of use of an agricultural building and land within its curtilage to a dwelling house and associated operational development.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for prior approval for a proposed change of use of an agricultural building and land within its curtilage to a dwelling house and associated operational development at Agricultural Buildings Named Dg Grinding, Biddenden, Kent TN27 8DH in accordance with the terms of the application Ref DC/19/2318/P3QPA and the plans submitted with it and subject to the attached schedule of conditions

Preliminary Matters

2. Schedule 2, Part 3, Section W of the GPDO sets out the prior approval process. It states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval for the proposal under Schedule 2, Part 3, Class Q of the GPDO which relates to change of use from agricultural buildings to dwelling houses.

Main Issue

3. The main issue is whether the proposal is permitted development having regard to Schedule 2, Part 3, Class Q of the Order.

Reasons

4. Class Q permits development consisting of a 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) of the Schedule to the Use Classes Order and any

building operations reasonably necessary to convert the building. The dispute between the parties relates to the scope of the works necessary to make the building suitable for residential use.

5. The appeal relates to a modest single storey building. It is constructed of profiled self-supporting asbestos cement segments. These are fixed into a concrete floor slab. The segments are bolted together, providing rigidity to the structure.
6. The appellants have submitted structural evidence, which has been prepared by a Chartered Structural Engineer. This identifies that the asbestos cladding would be retained, albeit that some patch repairs are required where necessary due to deterioration of the material. Thus, the existing structure would be retained substantially undisturbed.
7. The proposal would introduce an internal timber frame. This is identified as a lightweight structure, separate from the structural elements that form the building's cladding, intended only to support the internal finishes, insulation and services. It is clear to me that this frame is not necessary to support the existing structure.
8. I am mindful of the advice within the PPG that for the building to function as a dwelling it may be appropriate to undertake internal structural work. The PPG provides a list of examples of such works, but there is no indication that that list is to be regarded as a closed list. The proposed internal works would not, to my mind, exceed those which are necessary to make the building habitable.
9. I am further mindful of the Hibbitt judgement¹. That case clarified that a "conversion" of an agricultural building can constitute permitted development under Class Q, but a "rebuild" cannot and that the distinction is a matter of planning judgment. For the reasons above I have found that the proposal would, in this case convert an existing building and that the scope of the works necessary to make it suitable for residential use do not constitute rebuilding.
10. Concerns have been raised that the proximity of trees may result in the need to underpin the building. However, on the basis of the evidence before me in the engineer's structural report and subsequent clarification letter I am satisfied that the proposal does not seek to remove or replace any existing structural elements. There is no evidence before me that such proposals would go beyond the scope of normal building maintenance, irrespective of the use to which the building is put.
11. Further concerns have been raised regarding the use of the existing arched structural units, which contain asbestos, for a residential use. I have no substantive evidence before me to demonstrate that, subject to suitable treatment in accordance with current building practice and legislation governing contaminants, the continued use of these structural units would be unacceptable.
12. Bringing these matters together, I am satisfied that the proposed works retain the fundamental structure of the building and are necessary and reasonable to convert the building within the requirements of the GPDO for Class Q and in the context of a court judgment and go no further so as to constitute rebuilding.
13. There is no dispute between the main parties that the scheme would otherwise meet the requirements of Part 3, Class Q.1 and, on the evidence before me, I have no basis on which to reach a contrary view.

¹ Hibbitt v Secretary of State for Communities and Local Government [2016] EWgHC 2853

14. The site has had a previous use that is associated with a risk of contamination. However, there is no evidence before me to suggest that, subject to the imposition of suitable planning conditions, the proposal would result in harm, and I note that the Council's Environmental Team are satisfied that such an approach would be acceptable.
15. For these reasons, I conclude that the proposal would constitute permitted development having regard to Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO.

Conditions

16. In accordance with Condition Q.2(3) of the GPDO, the approval is subject to the condition that development must be completed within a period of 3 years from the date of this decision. Paragraph W(12) of the GPDO requires the development to be carried out in accordance with the approved details.
17. In addition, the Council has suggested several conditions. The appellant has had the opportunity to comment on the suggested conditions.
18. The Council has suggested a condition requiring the submission of external finishes, including brick samples tiles and cladding. Whilst it is clear from the appellants submission that no such materials are proposed and that the existing cladding will be used, replacement joinery is proposed. The proposal, therefore, has the potential to alter, in a limited way, the appearance of the building and therefore, whilst such a condition is still required to safeguard visual amenity, I have altered its wording to reflect the limited nature of the changes.
19. A condition is needed to secure the provision of a charging point for an electric vehicle so as to satisfy current national policy aimed at improving air quality and encouraging the use of lower emission private vehicles and thereby control climate change.
20. Conditions are necessary to control the provision of parking, including bicycles, and ensure that vehicles entering the site can turn and leave in forward gear so as to protect residential amenity and safeguard users of the public highway.
21. A condition is also necessary to ensure that appropriate provision is made for the collection of waste to protect the amenity of future occupiers and neighbours.
22. There will be foul water discharge and a condition is therefore necessary to ensure that the environment is safeguarded from contamination.
23. The site has had uses in the past associated with a risk of contamination and so a condition is necessary to ensure that the site would not result in environmental damage through the release of contaminants.
24. I have amended the wording of some of the Council's suggested conditions for clarity.

Conclusion

25. For the reasons given above, I conclude that the appeal should be allowed, and prior approval granted.

I A Dyer INSPECTOR

SCHEDULE OF CONDITIONS

1. The development shall be carried out in accordance with the approved plans/documents below:
 - Proposed Site Layout Plan - 101 received on 1 July 2024
 - Residential Conversion plans - 150 received on 1 July 2024
 - Location Plan received on 1 July 2024
2. Prior to their use on site, details (including source/ manufacturer and colour) and samples (where required) of all materials to be used on the external surfaces of the building, including but not limited to external joinery shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved and retained for the lifetime of the development.
3. Prior to the first occupation of the dwelling, at least one All Electric Vehicle charger point per dwelling shall be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wi-Fi connection). The charging point shall thereafter be retained available, in a working order for the charging of electric vehicles. Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:
<https://www.gov.uk/government/publications/electric-vehicle-homechargescheme-approvedchargepoint-model-list>.
4. Prior to the first occupation of the development, space shall be laid out within the site in accordance with drawing no. 101 for two cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
5. Prior to the first occupation of the development, the bicycle storage shall be provided and thereafter be retained solely for that purpose.
6. The bin storage shall be provided before the dwelling is first occupied and shall thereafter be kept available for their approved purpose at all times.
7. The dwelling shall not be occupied until sewage disposal works have been completed in accordance with the relevant Building Regulation requirements and treated effluent discharge requirements as set by the Environment Agency (where applicable). These shall be implemented prior to the occupation of the dwelling and retained thereafter in accordance with these details.

8. 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, the development 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.

END OF CONDITIONS