



Appeal Decision

Site visit made on 15 January 2019

by **I Bowen BA(Hons) BTP(Dist) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 February 2019

Appeal Ref: APP/R3325/W/18/3207255

Knowle Green Farm, Knowle St Giles, Chard, Somerset TA20 4AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Part 3, Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr & Mrs A Turner against the decision of South Somerset District Council.
 - The application Ref 18/01177/PAMB, dated 22 March 2018, was refused by notice dated 18 May 2018.
 - The development proposed is change of use of existing agricultural building to 2 No. dwellings.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q.(a) and Q.(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for change of use of existing agricultural building to 2 No. dwellings at land at Knowle Green Farm, Knowle St Giles, Chard, Somerset TA20 4AY in accordance with the terms of the application Ref 18/01177/PAMB, dated 18 May 2018, subject to the conditions in the attached Schedule.

Procedural Matter

2. For brevity, I have adopted the description of the development that appears in the Local Planning Authority's (LPA) decision notice and the appeal form, rather than that on the notification form.

Background and Main Issue

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) grants permission for certain types of development provided certain criteria are met. Under Schedule 2, Part 3, Class Q, provision is made for (a) the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; or (b) development referred to in (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 dwellinghouses of that Schedule.
4. In this case, both change of use and building operations to convert the building are proposed. The LPA considers that the proposed operational works are

beyond the scope of those which could reasonably be considered necessary to enable the building to function as a dwelling and this is reflected in its reason for refusal.

5. The LPA does not dispute that the proposal is acceptable, subject to conditions, in respect of the other matters required to be satisfied by Class Q in paragraphs Q.1. (a) to (h) and (j) to (m) and the conditions set out in paragraph Q.2. I have determined this appeal on that basis and therefore focus my decision on matters relating to Q.1 (i).
6. Accordingly, the main issue is whether the scheme would be permitted development under Schedule 2, Part 3, Class Q of the GPDO with regard to whether or not the proposed development would comprise building operations reasonably necessary for the building to function as a dwellinghouse.

Reasons

7. Development is not permitted under Class Q.1(i) if it would consist of building operations other than (i) the installation or replacement of (aa) windows, doors, roofs, or exterior walls or (bb) water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
8. The Planning Practice Guidance (the PPG) also provides advice on the extent of building works which may be carried out in accordance with the permitted development right under this Part. In this regard, it makes clear that the right assumes that the agricultural building is capable of functioning as a dwelling.
9. The parties have drawn my attention to the Hibbitt¹ judgement which established that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. It was further held that the distinction between a conversion and a rebuild is a matter of legitimate planning judgement.
10. The appeal building is a large agricultural barn with an external footprint of approximately 313sq.m. At the time of my site visit, it was being used for the storage of hay bales and agricultural machinery and vehicles. It would be converted into 2 separate single storey dwellings.
11. The LPA's refusal reason is based, in part, on the view that the building has inadequate structural integrity to be capable of supporting a change of use to 2 dwellings. However, whilst evidence relating to the structure of the building had been provided during the course of the application, further confirmatory evidence in the forms of photographs and a statement from qualified building surveyors was submitted alongside the appeal. In response, the LPA now appears to accept that the building may be structurally sound.
12. I saw on site that some foundations which support upright steel stanchions forming the framework of the building had been exposed in order to demonstrate their size and depth. The submitted evidence indicates these are isolated pad foundations with concrete strip footings supporting infill sections. I

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

also saw that the concrete block walls of the building are supported by substantial concrete buttresses which would be retained. From what I observed, I see no reason to disagree with the submitted evidence and am therefore satisfied that the building is structurally sound and capable of conversion to residential accommodation without reinforcements being needed to its existing structure.

13. However, having regard to the Hibbitt judgement, the structural stability of the building is not the only consideration in assessing whether proposed works are reasonably necessary for conversion to residential use and this is a matter also referred to in the LPA's reason for refusal.
14. The barn is constructed of a 5 bay steel portal frame. It is entirely open to the southern elevation but largely comprises concrete block walls to a height of approximately 2m on the remaining 3 sides, above which is corrugated metal sheeting. A section of wall is absent in the north eastern corner of the building and this has been partially filled with railway sleepers. The roof is dual-pitched, supported by wooden joists laid over a steel portal frame, to which the joists are attached. The roof is covered with corrugated asbestos cement sheeting. The floor is a concrete slab although its full extent was not visible at the time of my site visit or to the appellants' building surveyors.
15. The plans indicate that all of the structural steelwork would be retained, together with the roof structure which would be re-covered with zinc tray material. The concrete block walls would be retained with the exception of the insertion of window and door openings and internally insulated using existing cladding rails. External cladding would be installed using horizontal timber.
16. Whilst the extent of the above works is fairly extensive, I am nonetheless mindful that they are matters which expressly fall within the scope of works permitted under paragraph Q.1.(i). I appreciate that the Hibbitt judgement related to an appeal case that also involved a structurally sound building and that Inspector concluded that the extent of works went beyond what was reasonably necessary. However, on the basis of the High Court and appeal decisions, the barn in that case would appear to have required more substantial building works, including the construction of all four exterior walls.
17. Given the structural integrity of the building in the current appeal and the degree to which it would be retained in the development, I find in this case that the extent of the building operations would not go beyond what would be reasonably necessary for the conversion of the building to residential use. Accordingly, I find the proposed development is permitted by Class Q.

Conditions

18. The GDPO makes clear that any permission granted for development under Article 3(1) and Schedule 2, Part 3, Class Q is subject to the condition set out in paragraph Q.2.(3) which specify that the development shall be completed within a period of 3 years starting with the prior approval date. In the interest of certainty, I also attach a condition specifying the approved plans.
19. The LPA has also requested a number of conditions relating to hard and soft landscaping, highways safety, parking and surface water disposal.

20. However, conditions relating to landscaping would not fall within the scope of subject matters over which prior approval may be required as set out in Q.2.(1)(a)-(f) and it would therefore be unreasonable to impose them.
21. I have considered the remaining suggested conditions against Paragraph 55 of the revised National Planning Policy Framework and the PPG and, accordingly, have amended and/or omitted conditions as follows.
22. In relation to highways, the main parties have both commented that the proposed access junction and track already benefit from planning permission in connection with a building adjoining the appeal site. Notwithstanding this, the plans before me relating to the current appeal include the access track and junction within the red line. However, the LPA has suggested a condition requiring visibility splays to be provided and maintained in accordance with a plan which seemingly formed part of an earlier application, and which does not form part of this appeal. Nevertheless, having regard to the fact that the appeal site would be accessed off a narrow rural lane which, it can be expected, carries little and slow moving traffic, I consider it would be sufficient for visibility splays of 43.8m to the south west and 64.3m to the north east to be provided in compliance with those shown on plan no. SS.373.CQ.01/Rev1. In the interests of highway safety, I therefore impose an amended version of the condition suggested by the LPA referring to the latter plan. Similarly, a condition is necessary in the interests of highway safety to ensure any entrance gates to be installed should be set back a minimum of 5m from the highway and be hung so as to swing inwards only.
23. Given the proposed access and driveway is shown within the red line, I also consider it necessary in the interests of certainty to impose a condition restricting the area to be used as residential curtilage to that shown shaded in green on plan no. SS.373.CQ.01/Rev1. This would ensure that the scheme would comply with permitted development requirements in providing curtilage land which should be no larger than the land area occupied by the agricultural building.
24. The LPA also requested a condition controlling the laying out of parking spaces and turning areas. However as the building is located some distance away from the highway, I have no evidence before me to show why such a condition would be necessary. I have therefore omitted such a condition.
25. It is not in dispute that the site lies in Flood Zone 1 and I have been provided with no information as to why a condition to control surface water flooding would be necessary. I therefore omit such a condition.

Conclusions

26. For the reasons given, the appeal should be allowed and prior approval granted, subject to necessary conditions.

Ian Bowen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the approved plan: SS.373.CQ.01/Rev1, 2348.04, 2348/05A, 2348/06.
- 2) Prior to first occupation of the development hereby permitted, the visibility splays shown on drawing number SS.373.CQ.01/Rev1 shall be provided and shall thereafter be maintained at all times. There shall be no obstruction to visibility greater than 0.6m above adjoining road level within the visibility at any time.
- 3) Any entrance gates erected shall be hung to open inwards only, shall be set back a minimum distance of 5 metres from the carriageway edge and shall thereafter be maintained in that condition at all times.
- 4) The residential curtilage to be created for the dwellings hereby permitted shall be restricted at all times to the areas shaded green on approved plan no. SS.373.CQ.01/Rev1.