The Planning Inspectorate

Appeal Decision

Site visit made on 18 July 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/Y3940/W/23/3319335
Breaches Barn, Barrow Street, Mere, Wiltshire BA12 6AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under a Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
- The appeal is made by Mrs S Fineman against the decision of Wiltshire Council.
- The application Ref PL/2022/06387, dated 16 August 2022, was refused by notice dated 7 October 2022.
- The development proposed is one agricultural building to be converted into one residential dwelling (Use Class C3) and associated operational development.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mrs S Fineman against Wiltshire Council. This is the subject of a separate decision.

Preliminary Matter

3. The description of development above is summarised from that given on the application form with superfluous information omitted.

Background and Main Issues

4. Schedule 2, Part 3, Class Q of the GPDO 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) (Class Q(a)) together with any building operations reasonably necessary to convert the building (Class Q(b)).

5. Should the development fall under Class Q, Paragraph Q.1. sets out limitations to the permitted development right. If the proposal is found to accord with Paragraph Q.1., it is necessary to go on to consider Paragraph Q.2.(1) which lists conditions under which the developer must apply to the local planning authority for a determination as to whether prior approval will be required as to the impacts of the development.

6. The Council gave two reasons for refusal. The first reason states that the works required to convert the building would go beyond those which would be reasonably necessary for the building to function as a dwellinghouse, and thus would fail to satisfy the requirements of Paragraph Q.1.(i). However, based on the arguments made by both parties, it is more accurate to say that the Council's position is that the proposal would not fall within the scope of works

permitted under Class Q(b), which are qualified by Paragraph Q.1.(i). The second reason states that the external appearance of the building would not be appropriate, contrary to the prior approval matter at Paragraph Q.2.1(f).

7. Therefore, the first main issue is whether the proposed change of use would be permitted development under Class Q, in particular with respect to the development permitted under Class Q(b) and the requirements of Paragraph Q.1.(i). If so, a second main issue is whether prior approval should be granted, in particular with respect to whether the design and external appearance of the building would be acceptable.

Reasons

Whether permitted development

8. Class Q(b) permits building operations reasonably necessary to convert the building under Class Q. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that development is not permitted 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 the building operations allowed by paragraph Q.1(i)(i).

9. The Planning Practice Guidance (PPG) advises[1] that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling, and that for the building to function as a dwelling, some building operations which would affect the external appearance of the building and which would otherwise require planning permission would need to be undertaken and should be permitted. The PPG goes on to state 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.

10. The appeal relates to a steel portal framed barn measuring some 16m x 12m in footprint, located to the northern end of a complex of farm buildings. The barn has a shallow pitched roof covered in corrugated metal sheeting. The two gable ends are also covered in similar metal sheeting, except for single large openings to one corner on each side. The lower parts of the other two sides are enclosed by the same sheeting with an open gap between the sheeting and the eaves of the overhanging roof above. There is an existing concrete floor slab.

11. The appellant states that the floor slab and all external materials would be retained, with insulation fitted to the interior and non-load bearing timber partitions added within the structure, along with all necessary drainage, heating and electrics. Windows and doors would be added within the existing openings of the barn. The application was supported by a feasibility survey which concluded that the building is structurally capable of being converted. The Council does not challenge this conclusion and I have no other compelling

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

evidence to suggest the structure of the building is not capable of accommodating the proposed works.

12. The Council argues that the building has clearly been designed for agricultural purposes and that, notwithstanding that the individual works proposed may be considered necessary for conversion to residential use, they amount in totality to significant works to convert what is a skeletal structure. Taken together, the Council states that the works would go beyond what is considered reasonably necessary to convert the barn to a residential use.

13. The Council refers to the notable judgement in *Hibbitt*[2] where it was held that development should not be so extensive as to amount to a 're-build' or 'fresh build', such as where the starting point is that a building is so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such magnitude that in practical reality what is being undertaken is a rebuild.

14. The appellant argues that the fact that Paragraph Q.1(i) permits replacement of roofs and external walls shows that the legislative intent is that a 'conversion' may still necessitate substantial alterations to the building to make it fit for habitation. The appellant adds that the roof and wall cladding would be retained and the Council has not argued that any of the individual works are not necessary.

15. Whether the proposal would amount to a conversion or a re-build, to use the language in *Hibbitt*, is ultimately a matter of planning judgement for the decision maker. Paragraph Q.1.(i) provides for the installation or replacement of windows, doors, roofs and external walls which, taken together, could amount to the whole of the external surfaces of the building. However, it is clear from *Hibbitt* that even though installation or replacement of all of these parts of the building is permissible, if these works in combination occur to an extent that the building is in effect re-constructed, then it goes beyond a conversion and is not permitted development under Class Q(b), as the extent of replacement works means that the building was not suitable for conversion in the first place.

16. From my observations, the building is clearly designed for agricultural purposes. The existing building has a significant amount of cladding to its exterior and as a result is not as 'open' as some other barns may be. However, the building only comprises the steel portal frame and the cladding, with no solid walls or doors, and is therefore still quite skeletal in form. The cladding to the building, whilst enclosing the interior, does not have the structural integrity or permanence of a wall. The cladding is also not a material that would typically be used for a residential dwelling, and its retention appears, at least in part, to be in support of the case that the building is not skeletal, as without it the structure would be reduced to just the steel portal frame and almost certainly would amount to a re-build.

17. However, even with the cladding retained, its lightweight nature is such that the proposal would require full floor-to-ceiling walls to be constructed inside of it to all four sides of the building, and a ceiling underneath the roof to provide insulation and make the building weathertight. Although the windows and doors are indicated on the plans to fit within existing openings, they would in fact have to be fitted within the proposed walls as they could not be supported

[2] Hibbitt v SSCLG [2016] EWHC 2853

solely off the existing cladding or the steel portal frame. Consequently, whilst the submitted plans depict the external appearance of the building as being subject to limited change, the proposal would require everything inside the cladding to be constructed afresh in order to make the building habitable.

18. I accept that these elements, considered individually, may fit within the scope of the works permitted under Paragraph Q.1.(i) but, having regard to the approach of *Hibbitt*, the cumulative extent of works required is such that the proposal would amount in practice to a substantial re-build of what is a lightweight agricultural barn contributing only the steel frame, floor slab and external facing materials to the overall development.

19. The Council referred me to a number of appeal decisions in Wiltshire in support of its position. I was provided with the decision letter in one case and extracts and summaries in other cases but was not furnished with the full particulars of each scheme, with drawings notably absent. Therefore, it is difficult to draw direct comparison between these cases and the present appeal. As a result, the degree to which these decisions inform my considerations is limited, and I have determined the appeal on its own merits and the site specific information before me.

20. Drawing matters together, I find that the existing building is a skeletal structure comprising a steel frame, floor slab and lightweight external cladding designed for agricultural purposes. For the reasons set out, it is my judgement that the building, as it stands, is not suitable for conversion to a dwelling as the totality of works required to create a habitable building would be substantial and would go beyond what is reasonably necessary to convert the building to a dwelling.

21. Therefore, I conclude that the proposal would not be limited to building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b). Consequently, the proposal would not amount to permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Prior Approval and Other Matters

22. Although I have had regard to the evidence before me in respect of the Council's second reason for refusal, in light of my findings above it is not necessary for me to further consider whether the proposal would comply with the prior approval matter set out at Paragraph Q.2.(1)(f), as even if I were to find the proposal in compliance with this and all other conditions, limitations and requirements under Class Q, this would not change my conclusions as to whether the appeal scheme constitutes permitted development.

Conclusion

23. Therefore, the appeal is dismissed.

K Savage

INSPECTOR