



Appeal Decision

Site visit made on 9 March 2021

by **J Williamson BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 April 2021

Appeal Ref: APP/L3245/W/20/3263817

The Cow Barn, Weston Heath, Weston-Under-Redcastle SY4 5XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 Burleigh against the decision of Shropshire Council.
 - The application Ref 20/03051/PMBPA, dated 21 July 2020, was refused by notice dated 4 October 2020.
 - The development proposed is described as: None structural repairs and restoration to barn including new walls, windows, doors and lightweight roof. Upgrading of existing services and package treatment plant.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has submitted a document entitled Structural Design Calculations with an accompanying letter; information that was not included with the application details the Council made its decision on. I consider that no one would be prejudiced if I were to accept the information at this stage. I have therefore taken account of it in reaching my decision.

Legislative context

3. The proposal is for a change of use of an agricultural building to a dwellinghouse (Class C3), and for building operations reasonably necessary for the conversion. Therefore, the proposal relates to Schedule 2, Part 3, Class Q, sub sections (a) and (b) of the GPDO. At the outset, the proposal is required to adhere to the requirements of Class Q; if it does, then it is subject to the limitations outlined in paragraph Q.1, the conditions outlined in Q.2, and the provisions of paragraph 'W'.

Main Issues

4. The main issues are:
 - whether the proposal amounts to a conversion, having regard to the nature and extent of demolition and building operations required for it to function as a dwelling, and

- whether the proposal would provide satisfactory living conditions for future occupiers, with regard to internal space standards.

Reasons

Whether the proposal amounts to a conversion

5. Based on the evidence before me and my observations on site, the appeal building is a single-storey building constructed from a timber frame with vertical timber elevations, a felt roof laid on timber panels and timber framed window and door openings. The building sits on a layer of bricks laid on a layer of concrete.
6. Most of the main structure of the building has been replaced, and this appears to have been undertaken recently. Additionally, where the vertical timber panels have rotted around the base of the building, the gaps created have been enclosed with horizontal timber panels, works which also appear to have been undertaken recently. Many of the vertical timber panels that remain are rotten towards their base, with some damage extending up to half the height of the walls. There are openings in the walls where timber panels no longer exist. The felt on the roof is patchy and damaged. There are corrugated steel sheets hung on the inside of the building's walls, from between around a half to two thirds of the height of the walls, which block some holes that exist in the external timbers. Many of the corrugated steel sheets have also substantially corroded around their base. There is no constructed floor within the building.
7. The Structural Inspection report concludes that the principle structure forming the building is generally in good order and suitable for conversion. It is also noted in the report that the existing roof boards and felt would need to be replaced. The Design and Access Statement (DAS) concludes that converting the building to a dwelling does not require rebuilding of the structure and can be converted around the existing frame, subject to the provision of new walls, doors, windows, roof, and services. Additionally, the letter accompanying the structural calculations submitted with the appeal concludes that the structural elements of the building forming the framework appear to be satisfactory in terms of strength and serviceability.
8. The Planning Practice Guidance (PPG) provides some guidance on what may constitute building operations reasonably necessary to convert an agricultural building to a dwelling under Class Q permitted development rights¹. At the outset, the right assumes that the building is capable of functioning as a dwelling. Also, it is recognised that for such a building to function as a dwelling some building operations, which usually require planning permission, may be required; and that partial demolition may be required to facilitate the required building operations.
9. The PPG advises 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. Full details of the extent of demolition and building operations required for the building to function as a dwelling have not been provided. However, as noted

¹ PPG – Paragraph: 105 Reference ID: 13-105-20180615; Revision date: 15 06 2018

above, the appellant claims that the proposal does not require rebuilding of the structure. I have no grounds on which to dispute the claim that the structure could accommodate the works required. Therefore, at minimum the structure of the building would remain. As also noted above, the appellant concludes that the proposal would be subject to new walls, doors, windows, roof, and services, which suggests that the existing walls, doors, windows, and roof would be removed. The DAS confirms that the walls would be constructed to a high thermal standard comprising of cedar cladding to the external face and plasterboard finish internally; the roof would be a lightweight roof covering such as Envirotile Double Slate or similar, also thermally efficient with a plasterboard internal finish; windows and doors would be a high performance softwood timber and rainwater goods would be upvc.

11. I accept that substantial works could fall under the scope of Class Q(b) and that the works outlined would be reasonably necessary for the building to function as a dwelling. However, to my mind, removing all elements of the building other than the structure and the foundations on which it stands, and installing new walls, windows, doors and roof, along with a floor and complete fitting out internally, would not constitute 'conversion' of the building, as required by Class Q.
12. The PPG references a High Court judgement which focussed upon the meaning of the word 'conversion'² in this context (Hibbitt). Although the wording in the PPG has changed since, this does not alter the conclusion in the judgement that before proceeding to assess whether or not a proposal satisfies the limitations outlined in paragraph Q.1, the conditions outlined in Q.2, and the provisions of paragraph 'W', it is first necessary to conclude whether the proposal satisfies the requirements of Class Q, Part 3, Schedule 2 of the GPDO.
13. I accept that the proposal is for the change of use of an agricultural building to a dwelling, and therefore the proposal meets this requirement of Class Q. However, I consider that the nature and extent of demolition and building operations required for the building to function as a dwelling go beyond what could reasonably be described as a 'conversion'. Rather, I consider the proposal amounts to what is referred to as a 'fresh build' in the Hibbitt case. Hence, although it may be possible to create a dwelling using the structure of the existing building, to my mind this does not constitute 'conversion' of the building. Consequently, I conclude that the proposal does not satisfy the requirements of Class Q, Part 3, Schedule 2 of the GPDO.

Living conditions - future occupiers

14. The proposal would create a dwelling with an internal floor area of around 45 sqm. I note that Statutory Instrument 2020 No. 1243 introduced an amendment to the GPDO in respect of internal space standards of dwellings created via certain permitted development rights, including applications for prior approval for the change of use of agricultural buildings. In summary, if the internal space would be less than 37 sqm or of a size that would not meet the Nationally Described Space Standards (as amended, 2016), then the proposal would not be permitted.

² Hibbitt and Another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWCH 2853 (Admin)

15. However, although the amendment in this regard came into effect from 6 April 2021, certain transitional arrangements apply, which include the space standards not applying to prior approval applications made before 6 April 2021. Hence, as the prior approval application was made before this date, the space standards do not apply in this case.

Other considerations

16. I appreciate the appellant considers the building the subject of the Hibbert case to not be comparable to the building of concern here. However, it is the key issues of the judgement that is of relevance, not a comparison of the buildings. Hence, I consider the issue of whether the proposal amounts to a 'conversion', as discussed above, is relevant to the case at hand. What constitutes a 'conversion' is a matter of planning judgement.

17. I note that the appellant suggests the building will be repaired and refurbished should the appeal be dismissed. However, unlike a planning application, such a consideration does not form part of the decision-making process. The assessment is simply against the relevant details of the GPDO, which has been carried out above.

Conclusion

18. Notwithstanding the matter regarding living conditions, for the reasons outlined, I conclude that the proposal does not satisfy the requirements of Schedule 2, Part 3, Class Q of the GPDO. The appeal is therefore dismissed, and prior approval is not granted.

J Williamson

INSPECTOR