



Appeal Decision

Site visit made on 22 March 2022

by **Rachel Hall BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 May 2022

Appeal Ref: APP/L3245/W/21/3285667

Upper Fenemere Farm, Myddlewood, Myddle, Shrewsbury SY4 3RY

- 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.
 - The appeal is made by Mr D Morris of D M & K J Morris against the decision of Shropshire Council.
 - The application Ref 21/01301/PMBPA, dated 10 March 2021, was refused by notice dated 28 April 2021.
 - The development proposed is the conversion of an agricultural building to a dwelling.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for the conversion of an agricultural building to a dwelling at Upper Fenemere Farm, Myddlewood, Myddle, Shrewsbury SY4 3RY in accordance with the details submitted pursuant to Schedule 2, Part 3, Class Q, Paragraph Q.2(1) of the GPDO through application Ref 21/01301/PMBPA, dated 10 March 2021. The approval is subject to the conditions in the attached schedule.

Background and Main Issues

2. The description above is taken from the Council's decision notice as a description of development was not specified on the original planning application form.
3. Schedule 2, Part 3, Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) states that the local planning authority may refuse a prior approval application where 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 the prior approval.
4. The proposal relates to Schedule 2, Part 3, Classes Q(a) and (b) of the GPDO, which enable the change of use and conversion of agricultural buildings to dwellinghouses. That is subject to certain limitations, paragraph Q.1, and conditions, paragraph Q.2.
5. Under paragraph Q.1(i) of the GPDO, development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or external walls, or water, drainage,

electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The Council considers that insufficient evidence has been provided to show that the building works required would fall within that definition.

6. Therefore, the first main issue is whether it has been demonstrated that the building operations proposed would amount to installation or replacement of elements of the buildings beyond that which is reasonably necessary for the building to function as a house, and consequently whether the limitation in paragraph Q.1(i) of the GPDO is met.
7. The Council's decision notice also referred to paragraph Q.2.(1)(f) of the GPDO relating to the proposal's design and external appearance. As such, the second main issue is whether the proposal would be acceptable with respect to design and external appearance, and therefore whether condition Q.2.(1)(f) has been met.

Reasons

Whether it has been demonstrated that the building operations are reasonably necessary

8. The Planning Practice Guidance (the PPG) confirms that the right under Class Q permits building operations which are reasonably necessary to convert the building, which may include those which would affect its external appearance and would otherwise require planning permission. It clarifies 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.
9. Therefore, it is only where the existing building is suitable for conversion to residential use that the building would be considered to have the permitted development right. The PPG also references that it may be appropriate to undertake internal structural works, including to allow for a floor, insertion of upper floors or internal walls. Whether or not the proposed works go beyond the scope of conversion is a matter of fact and degree and requires an element of judgement.
10. The existing barn is enclosed on three sides. On these elevations, the bottom section of the enclosure comprises concrete block walls which would be retained. These would be rendered and painted, with new vertical wooden cladding above to replace existing, and aluminium windows inserted. The replacement vertical cladding would be fixed to a new timber frame that would be fixed to the lower level block work and steel frame. Insulation would be added to the inside of these walls.
11. On the fourth elevation that is currently open save for metal gates, a cavity wall would be constructed on new foundations laid between the existing pad foundations of the steel stanchions. This wall would also be finished in painted render with vertical cedar cladding above, and new windows and a door inserted. The existing corrugated roof would be replaced with metal roofing sheets.
12. During my visit the building appeared to be in good condition with no evident structural issues. A Structural Appraisal (the SA) by Lewis Howdle Limited (November 2019) confirms that the existing steel structure is considered to be

in good condition and would be retained. The SA appears to have been produced by a suitably qualified authority. No robust evidence is before me to indicate that the SA or accompanying calculations on the load bearing capacity of the steel frame are unreliable in any significant respect.

13. Although some new foundations are required to support the new cavity wall, the proposals would otherwise make use of the existing steel structure of the barn. Replacement of elements such as the vertical cladding and roof are required to make the building habitable. Taken as a whole, I am satisfied that the works amount to conversion, the barn already being enclosed on three sides, and are not so significant as to amount to rebuilding.
14. Accordingly, I am satisfied in this instance that sufficient evidence has been provided to demonstrate that the proposed works would be reasonably necessary for the building to function as a house, and consequently the limitation in paragraph Q.1(i) of the GPDO would be met.

Whether acceptable with respect to design and external appearance

15. The appeal barn appears as one of a complex of buildings that appear traditionally associated with farming, some of which have been converted for residential use. Brick built stables adjoin the existing barn on one side. Adjacent are brick built buildings in residential use, known as The Stables. A similar style of single storey building to The Stables is located opposite the appeal building, with a pitched corrugated roof and vertical timber cladding at one end. Beyond this is a larger scale barn with metal gates, timber cladding and corrugated roof, with further stables beyond that. Consequently, there is a mixed palette of materials and building styles in the vicinity of the appeal site.
16. The proposed design retains the form of the existing building, with the dual pitched roof and the long façade divided into five bays. The proposed windows on the elevation facing into the appeal site are relatively small scale. Whilst somewhat domestic in scale and inserted over the join between render and vertical cladding, these would nonetheless help to retain the barn-like appearance of the building, keeping interruptions in that façade to a minimum.
17. Larger scale windows are proposed on the two elevations facing out of the site into open countryside. The floor to ceiling windows within one of the bays on the southern elevation would be reminiscent of large openings typical of agricultural barns. The extent to which these larger outward facing windows would be perceptible from the surrounding countryside would in any event be relatively limited.
18. The proposed vertical cladding would be reminiscent of the timber cladding on the existing barn and not out of keeping with other buildings in this rural setting. Some boundary treatments in the immediate vicinity also include vertical timber panels. In the particular circumstances of this site, the use of painted render at the lower level would not appear out of place. I note that painted render is visible on other residential buildings in the vicinity.
19. For these reasons, I conclude that the proposal would be acceptable with respect to design and external appearance. I therefore conclude that condition Q.2.(1)(f) of the GPDO would be met.

Conditions

20. For the avoidance of doubt, I have imposed the condition specified under Schedule 2, Part 3, paragraph Q.2(3) of the GPDO which requires that proposals are completed within three years of the date of this prior approval decision. Prior approval may be granted unconditionally or subject to reasonably related conditions. In that context it is necessary to impose a condition requiring adherence to the supporting plans for certainty, and to ensure compliance with the relevant requirements of Class Q.
21. A condition on avoidance of nesting birds is not necessary in light of the parallel provisions of section 1 of the Wildlife and Countryside Act 1981 on the protection of wild birds, their nests and eggs. I have imposed a condition on construction phase measures for wildlife protection. This broadly aligns with recommendations in the appellant's Great Crested Newt habitat suitability assessment and mitigation strategy (Churton Ecology, 10 March 2021), and is necessary in light of the duty under section 40 of the Natural Environment and Rural Communities Act 2006 to have regard for biodiversity and protected species. A condition requiring the provision of bat and bird boxes and external lighting is similarly necessary in the interests of biodiversity and protected species. A condition requiring approval of a foul and surface water drainage scheme is necessary to ensure suitable drainage and pollution prevention.

Conclusion

22. For the reasons set out above, I conclude that the appeal is allowed and prior approval is granted.

Rachel Hall

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted must be completed within a period of three years from this decision in accordance with Schedule 2, Part 3, paragraph Q.2(3) of the GPDO.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 46816/21/03; 46816/21/05; 16150/01;
- 3) No conversion, renovation or demolition works hereby permitted shall take place during the bird nesting season of 1 March to 31 August in any year, unless a survey of the building for nesting birds has first been undertaken. Only if that survey finds that there are no active nests within the building, should the approved development works proceed.
- 4) All building materials, rubble, bricks and soil must be stored off the ground (for example on pallets, in skips or in other suitable containers) to prevent their use as refuges by wildlife. Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped. Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present. If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England should be contacted for advice. The local planning authority should also be informed. If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society.
- 5) Prior to first occupation of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the local planning authority. The following boxes shall be erected on the site:
 - A minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species.
 - A minimum of 1 artificial bird nest, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained and retained for the lifetime of the development.

- 6) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out in accordance with the approved details and thereafter maintained and retained for the lifetime of the development.
- 7) The dwelling hereby approved shall not be occupied until the foul and surface water drainage works have been implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority. The approved drainage works shall thereafter be maintained for the lifetime of the development.