



Appeal Decision

Site Visit made on 15 December 2020

by Mr Andrew McGlone BSc(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2020

Appeal Ref: APP/C3430/W/20/3259550

Brinsford Farm, Brinsford Lane, Slade Heath WV10 7PR

- 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 appeal is made by Mr David Hill of Warm Beautiful Homes against the decision of South Staffordshire District Council.
 - The application Ref 20/00316/AGRRES, dated 21 April 2020, was refused by notice dated 15 July 2020.
 - The development proposed is conversion of agricultural building to 3 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of agricultural building to 3 dwellings at Brinsford Farm, Brinsford Lane, Slade Heath WV10 7PR in accordance with the terms of the application, Ref 20/00316/AGRRES, dated 21 April 2020, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 123113/103; 123113/102; and 123113/101C.
 - 2) No works hereby approved shall be commenced until full details of the exterior roof materials, fenestration and rainwater goods (design, materials, colour and finish), and any external lighting are submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be undertaken in accordance with the approved details.
 - 3) The development hereby permitted shall not be brought into use until the parking and turning areas have been provided in accordance with the approved plans.

Applications for costs

2. An application for costs was made by Warm Beautiful Homes against South Staffordshire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) grants planning permission for certain forms of development, including the change of use of an agricultural building to a dwelling house, together with building operations reasonably necessary to

convert the building to that use, provided that certain conditions, limitations and restrictions are complied with.

4. The Council has refused the application on the basis that it does not accord with the limitations and restrictions contained within Classes Q(a) and Q(b) of Part 3 of Schedule 2 of the GPDO. Development permitted under Class Q is also subject to the condition that before commencement, an application must be made to determine whether prior approval is required in respect of the matters referred to in (a)-(f) of paragraph Q.2(1). The Highway Authority do not raise issue with the scheme in highway terms and the Council does not raise concern with the remaining conditions of paragraph Q.2(1) of the GPDO. I agree.

Main Issue

5. Prior approval has previously been granted for the conversion of an adjacent building on the site to residential use¹. However, the submitted evidence confirms that the prior approval scheme granted has not been implemented and can no longer be implemented following the grant of planning permission² for 6 dwellings which is in the process of being implemented on site. As such, there is no conflict with paragraph Q.1(c) of Class Q.
6. Consequently, the main issue is whether the development would be permitted development for the purposes of the Order, having regard to the limitations listed in paragraph Q.1 of Class Q, with regard to building operations.

Reasons

7. The appeal building is constructed from a steel frame, with a concrete dado abutting the steel columns up to a height of around 2.2 metres high. The wall supports timber cladding above which extends up to the dual pitched roof which is covered with cement fibre sheeting. Timber purlins support the roof. Both gable elevations are of a similar construction, but they have a large opening in either. Internally, there is no floor slab, but each of the columns are about 300mm below existing ground levels and set within concrete.
8. The Planning Practice Guidance (the Guidance) explains that the right, under Class Q, "assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. 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." (Paragraph: 105 Reference ID: 13-105-20180615).
9. The GPDO does not make a distinction between structural and non-structural works, and it places no restriction on whether works are structural or not. Even so, it was held in *Hibbitt v SSCLG [2016] EWHC 2853* that the building must be

¹ Council Ref: 19/00623/AGGRES

² Council Ref: 19/00820/FUL

capable of conversion to residential use without new structural elements, and that the existing building should be sufficiently strong enough to bear the loading from the external works.

10. The structural analysis submitted by the appellant confirm that, although the frame has theoretical horizontal deflection of 36mm at eaves level, the existing structure can support the proposed conversion with no risk of an ultimate failure nor danger of irreversible deformations. It was later clarified that the existing foundations to the building are adequate provided that the additional weight to the structure is no greater than 10% of the existing. This evidence is not disputed by the Council and there is no evidence that suggests that the additional weight would not be greater than the 10% extra.
11. The appeal scheme would see the retention of the steel frame, concrete walls and timber cladding. The blockwork would be insulated, infilled and re-clad. Metal cladding would be replaced with timber and new insulated metal roof sheets are proposed along with new windows and doors. The amended version of the scheme would see the cladding not extend as low as originally proposed. These aspects of the proposal would all be building operations as set out in paragraph Q.1(i) and the Guidance which both envisage either the installation or replacement.
12. Section 55(2) of the Town and Country Planning Act 1990 is clear that internal works are not generally development. This is backed up by the Guidance³, which says "For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q."
13. A new concrete ground floor is proposed. This can be inserted without carrying out any excavation works. The new ground floor would support internal load bearing walls that would support a freestanding first floor. Other internal partition walls would be inserted along with insulation and weatherproof panels behind the existing cladding/walls.
14. Despite the Council's concerns about the totality of the works, many are building operations listed within paragraph Q.1(i) and others are internal works. The Council offer no substantive evidence which challenges the appellants structural evidence. I do not consider that the proposals go above and beyond what is reasonably necessary to convert the building into a dwellinghouse as the building is capable of conversion. As a result, I conclude that the development would be permitted development for the purposes of the Order, having regard to the limitations listed in paragraph Q.1 of Class Q.

Other matter

15. Article 3(1) of the GPDO grants planning permission for the classes of development described as permitted development in Schedule 2 subject to Regulations 75-78 of the Conservation of Habitats and Species Regulations 2017. Article 3(1) effectively imposes a pre-commencement condition on all development that is permitted by the GPDO and would affect a European protected habitat. Permitted development cannot be lawfully begun until the developer has made a Regulation 77 application and the Council is satisfied that the development would have no adverse effect on the integrity of the

³ Paragraph: 105 Reference ID: 13-105-20180615

habitat. The appeal site is within 15km of the Cannock Chase Special Area of Conservation (SAC). In dealing with the appeal scheme, the Council and Natural England have considered the proposal's effect on the SAC. While I note the outcome of this assessment, a Regulation 77 application is a matter for the main parties to address outside of this appeal before the development starts.

Conclusion and Conditions

16. For the reasons set out above, I conclude that the proposal satisfies the requirements of the GPDO for change of use from an agricultural building to a dwelling, as set out under Schedule 2, Part 3, Class Q, both with regard to being permitted development and also meeting the prior approval conditions. Therefore, the appeal should be allowed and prior approval is granted.
17. The GPDO requires at Part 3 paragraph W(12)(a) that the development shall be carried out in accordance with the details approved by the local planning authority. As paragraph Q.2(3) stipulates that development shall be completed within a period of three years, a condition is not required in this regard.
18. Paragraph W(13) of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. I have imposed a plans condition in the interests of certainty. Given my findings and a result of the plans condition, a further condition concerning the scope of works is not necessary. Nor is a condition to control the curtilage of each dwelling needed as this duplicates the plans condition and the provisions of the GPDO. I have, however, imposed amended version of conditions about materials and finishes and the parking and turning areas in the interests of the character and appearance of the area and highway safety respectively.

Mr Andrew McGlone

INSPECTOR