



Appeal Decision

Site visit made on 30 August 2022

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2022

Appeal Ref: APP/H1033/W/22/3295929

Stubbins Farm, unnamed road from Stubbins Lane to Tithe Barn Farm, Chinley SK23 6ED

- 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(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr William Broadhurst against the decision of High Peak Borough Council.
 - The application Ref DET/2021/0020, dated 29 November 2021, was refused by notice dated 11 February 2022.
 - The development proposed is the change of use of agricultural buildings to dwellinghouse (C3).
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Decision

1. The appeal is allowed and prior approval is granted under Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO) for a change of use of an agricultural building to dwellinghouse (C3) at Stubbins Farm on an unnamed road from Stubbins Lane to Tithe Barn Farm, Chinley, SK23 6ED, in accordance with the terms of application Ref DET/2021/0020, dated 29 November 2021, and the plans submitted with it, subject to the conditions set out in a Schedule attached to this Decision.

Procedural Matter

2. The second reason for refusal listed on the Council's Decision Notice refers to 'Part 6, Class Q, Paragraph A.1 of the GDPO'. The reason follows on from the Council's assessment under Part 3, Class Q - which is referred to both in the first reason for refusal and the Council's report. It is also the relevant provision under which the application was submitted. Accordingly, I have proceeded with reference to the Part 3 provisions only. For the avoidance of doubt, there is no Class Q under Part 6 of the GPDO.

Background and Main Issues

3. Schedule 2, Part 3, Class Q(b) of the GPDO permits development consisting of a 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 of the Use Classes Order¹, together with building operations reasonably necessary to convert the building to the Class C3 use.

¹ The Town and country use Classes Order 1987 (as amended)

4. Schedule 2, Part 3, Section W of the GPDO sets out the prior approval process. It states that the local planning authority may refuse an application where, in its opinion, 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.
5. It was on this basis that the Council refused to grant prior approval for the scheme under Schedule 2, Part 3, Class Q1(i) of the GDPO as it relates to the degree of building operations necessary for the building to function as a dwellinghouse and Condition Q2 (1)(f) in relation to the design or external appearance of the property.

Reasons

Extent of works

6. The building is a modern steel-framed agricultural shed with a sloping concrete floor. It has a full height blockwork gable separating it from an adjoining agricultural shed on its eastern side. The remaining elevations variously consist of areas of part-height blockwork, corrugated fibre-cement sheeting to the upper elevations and some openings. The roof has supplementary timber purlins supporting fibre sheeting.
7. The Planning Practice Guidance² (PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, 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, would be permitted.
8. However, following the judgement in *Hibbit*³, as referenced by the Council, the PPG also 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. 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'. The nature and extent of the proposed building operations are therefore a relevant consideration in making that assessment.
9. Although the accompanying structural survey indicates that the building was only visually assessed, there is little before me to cause me to doubt its findings. At my site inspection, I saw that the framework was substantial, of limited age and with few signs of wear and tear. The intermediate timber elements, blockwork and roof covering also appeared in sound condition.
10. To function as a dwelling, the appellant's Design and Access Statement clarifies that it is proposed to retain much of the existing blockwork, cement sheet walls and roof. The main external works would consist of replacing the existing sheeting on the south elevation with full-height cladding, and the treatment of the existing and new window and door openings to comply with safety requirements and allow sufficient natural daylight to enter the building.

² Reference ID: 13-105-20180615

³ *Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin)

11. Internal works to insulate the building, provide a level floor and subdivide the space would also be necessary. Some limited bracing of the steel framework is also recommended.
12. As the majority of the building envelope would be retained and the other limited external works would be within the scope of works set out in Paragraph Q.1.(i)(i), I find that, subject to meeting the remaining considerations of Class Q and Paragraph W of Part 3, the building would be capable of conversion to a dwellinghouse without necessity for extensive new/re-build.

Character and appearance

13. The shed is of a typical modern agricultural design. Its utilitarian appearance amongst a cluster of other modern sheds and more traditional rural buildings is a characteristic feature of the surrounding landscape.
14. The proposed alterations to the main southern elevation of the building would retain the appearance of an agricultural shed. As the main aspect of the building visible from the roadway, this and the sheeted roof would retain much of the building's functional appearance.
15. The main interventions, including window and door openings, would be limited to the north and western elevations. These would utilise existing openings and a limited number of new openings. Although the introduction of new domestic proportioned window openings in the northern elevation would be incongruous to the character of the building, views to the altered elevations would be highly limited due to the nestled position of the shed within the local topography, which rises to the north.
16. Accordingly, in most views, the building would largely retain its existing character and agricultural appearance. Contrary to the Council's position, I find that they would not appear prominent or cause undue harm to the character and appearance of the wider surrounding area.
17. For the above reasons, I find that the character and appearance of the building and its location would be substantially retained. The proposal would thereby align with Policies S1, EQ2, EQ3 and EQ6 of the High Peak Local Plan [2016], the 'High Peak Landscape Character Assessment' SPD (2006), High Peak 'Residential Design Guide SPD' (2018) and the National Planning Policy Framework (the Framework) as they seek development to contribute to local character, appearance and distinctiveness, and protect the landscape character to achieve sustainable forms of development.

Other Matters

18. There is no dispute between the main parties that the proposal would comply with the other matters to be considered under Class Q. In regard to potential site contamination, the Council is satisfied that a watching brief would provide sufficient reassurance to achieve a safe form of development. This can be secured by planning condition.
19. For the purposes of the appeal, the appellant has reproduced a protected species survey which was submitted to the Council in conjunction with a preceding application Ref DET/2020/0012. It is referred to in the Council's report in its assessment of the current proposal. The Council was satisfied that

the proposal would not lead to an adverse effect on protected species. Having regard to the report⁴, and visited the site, I find no reason to disagree with that conclusion. Accordingly, I am satisfied that the duty under Regulation 9 of the Conservation of Habitats and Species Regulations 2017 is discharged.

Conditions

20. Section W (13) of Part 3 of Schedule 2 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.
21. I have considered the suggested conditions from the Council and had regard to Paragraph 56 of the Framework and the PPG. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with paragraph Q.2 (3) of the GPDO. Additionally, I have imposed a condition specifying the relevant drawings as this provides certainty.
22. To ensure a suitable external appearance of the building, conditions in relation to external materials and window and door types are reasonable and necessary. To ensure a safe form of development a condition relating to the treatment of potentially undiscovered contamination is reasonable.
23. A condition requiring the removal of Permitted Development Rights under Classes A-E of Part 1, Schedule 2 of the GPDO is unnecessary as they exclude dwellinghouses formed under the Class Q provisions. A condition requiring detailing of means of enclosure falls outside the limited scope of issues under consideration within Class Q.

Conclusion

24. For the reasons given above, I conclude that the appeal should be allowed.

R Hitchcock

INSPECTOR

⁴ Stubbins Farm, Chinley Update Bat Survey August 2020 by Dunelm Ecology

Schedule of Conditions to Prior Approval Ref DET/2021/0020

(1) The development must be completed within a period of 3 years from the date of this decision.

(2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 300, Site Plan as Proposed 302, and, Plans and Elevations as proposed 200.

(3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on approved drawing No200.

(4) Prior to their installation, details of the windows and doors to be used in the external envelope of the building shall be submitted to and agreed in writing with the local planning authority. Thereafter, the development shall be completed in accordance with the approved details.

(5) If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the Local Planning Authority without delay. The approved remediation scheme shall be implemented in full prior to first use of the building as a dwellinghouse.

END.