
Appeal Decision

Site visit made on 22 January 2019

by A Spencer-Peet BSc.(Hons) PGradDip.Law PGDip.LP

an Inspector appointed by the Secretary of State

Decision date: 21 March 2019

Appeal Ref: APP/D0840/W/18/3208377

Land opposite the Old Smithy, Cider Press Road, Boyton, Launceston

- 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 Lindsay Ellacott against the decision of Cornwall Council.
 - The application Ref PA18/03083, dated 15 November 2017, was refused by notice dated 1 June 2018.
 - The development proposed is described as the change of use (under Class Q (Schedule 2, Part 3) of the GPDO 2015) from an agricultural outbuilding to a residential unit and associated car parking and garden recreation.
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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 change of use (under Class Q (Schedule 2, Part 3) of the GPDO 2015) from an agricultural outbuilding to a residential unit and associated car parking and garden recreation, at land opposite the Old Smithy, Cider Press Road, Boyton Launceston, in accordance with the terms of the application Ref PA18/03083, dated 15 November 2017, and subject to the conditions listed in the attached schedule.

Application for costs

2. An application for costs was made by Mr Lindsay Ellacott against Cornwall Council. This application is the subject of a separate Decision.

Procedural Matters

3. Since the date of the planning application, the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 came into force on 6 April 2018. I have taken this into account along with the subsequent amendments made to the Government's on-line Planning Practice Guidance (the PPG).
4. The appeal site comprises an agricultural barn and surrounding area of hardstanding which would form the curtilage, the extent of which is shown on drawing number SPH2017-18/086.3.

Main Issue

5. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO having particular regard to the requirements of Paragraph Q.1.(i) in relation to works reasonably necessary for the building to function as a residential unit.

Reasons

6. Class Q 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) of the Schedule to the Use Classes Order¹ and any building operations reasonably necessary to convert the building.
7. 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 the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. Paragraph Q.1(i) also confirms that partial demolition is permitted to the extent reasonably necessary to carry out the building operations allowed under the same paragraph.
8. The GPDO does not define what is meant by 'reasonably necessary'. However, the main parties have referred me to the case of *Hibbitt and Another v Secretary of State for Communities and Local Government and Another* (the Hibbitt Judgement), which considers how this element of the GPDO should be interpreted. The Hibbitt Judgement found that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. As such, if the operations proposed would amount to rebuilding, the appeal should be dismissed on the basis that the proposed development is outside the relevant Class. 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.
9. The PPG advises 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 otherwise require planning permission, should be permitted. The PPG goes on to state that it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.
10. The appeal proposal relates to a substantial concrete floored barn, which at the time of my site visit was used for storage of agricultural machinery. The barn is a modern steel portal framed structure, with walls composed of concrete block work to the lower parts on three sides, and with a combination of timber slats and what appear to be corrugated fibre sheeting to upper parts. The northern side of the barn is open, with the exception of part of the steel portal frame

¹ SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended.

which supports the roof. The steel columns, which comprise the frame of the structure, are embedded in the concrete floor.

11. The proposed works would replace the vertical sheeting attached to the external walls with timber cladding, in addition to the corrugated fibre sheeting on the roof which would be replaced with dark grey box profile steel roof sheeting. One new external wall would be constructed on the barn's northern elevation to include a balcony and installation of windows. Internal walls and partitions would be required in order to create individual rooms within the proposed dwellings, with an additional floor being incorporated within the design in order to provide first floor accommodation. The east and west elevations of the barn would be punctured by several windows at ground and first floor level.
12. Although the Council has questioned the structural report submitted in support of the appeal scheme, I have no substantiated evidence that the building is structurally unsound. The structural report concludes that the building is suitable for conversion to domestic use, while it does not indicate any concern with respect to the foundations. Based on the information before me, I am satisfied that the barn is in a sufficiently robust condition to allow for conversion without alterations to the barn's existing structure.
13. While the Hibbitt Judgement also involved a structurally sound framework, the extent of the works required in that instance still led the Inspector to conclude that they went beyond what was reasonably necessary. The Judge in that case accepted this and concluded that that development would, in all practical terms, have amounted to starting afresh with only a modest amount of help from the original structure. Notwithstanding the similarly structurally sound frames of the barn which is the subject of this appeal, the barn in the Hibbitt Judgement was open on three sides and would have been stripped down to the frame. However, the appeal property would retain its metal and timber frame, concrete floor and footings, timber roof purlins, and its existing concrete block walls on the east, west and south elevations, with openings inserted to reasonably facilitate its conversion to dwellings.
14. While the corrugated fibre sheeting on the side elevations and roof would be replaced, and new openings would be inserted to provide windows and doors, Class Q.1 (i) allows for the installation or replacement of roofs, exterior walls, windows and doors. I consider that, in terms of the overall scale of the structure, the proposed alterations would not be excessive. Internal works such as the installation of partition walls and a first floor would not necessarily constitute development.
15. As the barn's structural integrity would not, on the evidence before me, be harmed and a considerable proportion of it would remain, I find that the building operations would be reasonably necessary in this instance and would not constitute a rebuild as described in the Hibbitt Judgement. Accordingly, I conclude that the development would not exceed the limitations set out in paragraph Q.1(i) of the GPDO.

Other Matters

16. The main parties each refer me to other appeal decisions in support of their cases and I have had regard to each. However, they involve different individual

circumstances, and are not determinative in this appeal. The recent appeal² referred to me by the Council can be distinguished from this proposal in that additional works were required in relation a side elevation of that barn, whereas no such additional structural works would be required under this appeal proposal. I have therefore considered this appeal on its own merits.

Conditions

17. Paragraph Q.2(3) of the GPDO specifies that development under Class Q must be completed within a period of 3 years starting with the prior approval date. Furthermore, it is necessary, in the interests of certainty and precision, to define the plans with which the appeal proposal should accord. A condition requiring details of any boundary treatment be approved by the Local Planning Authority prior to occupation of the dwellings would be necessary in the interests of preserving the character and appearance of the surrounding area.

Conclusion

18. For the reasons set out above, the appeal is allowed and prior approval is granted.

A Spencer-Peet

INSPECTOR

² APP/D0840/W/18/3199465

Schedule of Conditions

- 1) The development hereby permitted must be completed within a period of three years from the date of this decision in accordance with Schedule 2, Part 3, paragraph Q.2 (3) of the 2015 GPDO.
- 2) The development hereby permitted shall be carried out in accordance with drawing number: Site/Location Plan received by the local planning authority on 9 March 2018, and drawing numbers: Existing SPH2017-18/086.1A and Proposed SPH2017-18/086.2A received by the local planning authority on 23 March 2018.
- 3) The dwellings hereby permitted shall not be occupied until a boundary treatment scheme has been implemented in line with details previously approved in writing by the local planning authority in writing (which shall include details of the height, siting, appearance and construction of all boundary treatments). Other than in respect of necessary replacement, the approved boundary treatments shall not thereafter be altered or removed without the prior written agreement of the local planning authority.