



Appeal Decision

Site visit made on 8 October 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2024

Appeal Ref: APP/B3438/W/24/3341534

Rakeway Farm, Rakeway Road, Cheadle, Stoke-on-Trent ST10 1RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and 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 The Estate of Mrs. Beardmore Alcock c/o Nicholas John of the Eric Whitehead Partnership, against the decision of Staffordshire Moorlands District Council.
 - The application Ref is DET/2023/0040.
 - The development proposed is prior approval for conversion and alteration of former agricultural building to form 1no. dwelling.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for prior approval for conversion and alteration of former agricultural building to form 1no. dwelling at Rakeway Farm, Rakeway Road, Cheadle, Stoke-on-Trent ST10 1RA in accordance with the application DET/2023/0040 and the details submitted with it and subject to the conditions in the attached schedule.

Preliminary Matters

2. I have taken the description of development from the decision notice and the appeal form, as it was not detailed on the application form.
3. The appeal proposal relates to a prior approval notification made under Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO). Development Plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.
4. On 21 May 2024, Statutory Instrument 2024 No 579 came into force amending Article 3(1), Schedule 2, Part 3, Class Q of the GPDO. Due to the transitional arrangements, I have proceeded to determine the appeal in accordance with the GPDO provisions that were in force at the time that the original application was submitted in November 2023. All references to the GPDO in this decision therefore relate to the version that was in force at that time.
5. The appellant has submitted an update to their original Structural Engineers Inspection Report as part of their appeal, to address concerns with the original

report and the time period since the first inspection of the appeal building (original version 28 October 2022, revised 26 March 2024). Whilst not before the Council at the time of their decision, it was submitted at the outset of the appeal. I note that the Council has had the opportunity to comment on it, and that the Council have referenced it in their appeal statement. Having regard to the principles established in *Holborn Studios Ltd*¹, I am satisfied that no party has been prejudiced in this regard and I have taken the updated Structural Engineers Inspection Report into account in determining this appeal.

Background and Main Issues

6. Schedule 2, Part 3, Class Q 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 (dwelling houses) of the Schedule of the Use Classes Order 1987 (as amended), and the building operations reasonably necessary to convert the building.
7. 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.
8. It was on this basis that the Council refused to grant prior approval for the proposal under Schedule 2, Part 3, Class Q.1(i) of the GPDO as it relates to the degree of building operations necessary for the building to function as a dwelling house and Q.2(1)(e) in relation to whether the location and siting of the building would make it impractical or undesirable for a dwelling, and Q.2(1)(f) in relation to the design or external appearance of the dwelling.
9. The main issues are therefore whether the proposed development would constitute permitted development in respect to Paragraph Q.1(i) of the GPDO, and if the proposal is found to constitute permitted development, the effect of the design and external appearance, location and siting of the building on the character and appearance of the area.

Reasons

Building Operations

10. The appeal building is a detached steel portal framed agricultural building. It has brick and blockwork walls to the lower sections of its elevations with hit and miss timber cladding/ corrugated cladding to its upper elevations. The building has a solid concrete floor and a corrugated cement sheeting roof.
11. Externally, there would be alterations to the building including the insertion of windows and doors, provision of a new clay tile roof and replacement cladding. Internally, new walls and partitions would be required to create individual rooms along with an additional floor to provide first floor accommodation.
12. The GPDO states at paragraph Q.1(i) that 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

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823

electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.

13. Paragraph 105 of the Planning Practice Guidance (PPG)² advises that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, the PPG is clear that it is not the intention of the permitted development right to allow rebuilding work that would go beyond what is reasonably necessary for the conversion of the building to a residential use. As such, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to benefit from the permitted development rights.
14. Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement based on fact and degree of an individual case. My attention has been drawn to Hibbitt³ which considered whether the works required to bring about the change of use amounted to a re-build or 'fresh' build as opposed to a conversion. The case reinforces that it is a matter of planning judgement as to the level of works involved that would still constitute a conversion. However, it was established that the building should be capable of conversion without new structural elements, and the existing building should be sufficiently robust to bear the loading from external works.
15. The appellant has provided a revised structural engineers inspection report (structural report). The appeal site was originally inspected in October 2022, and again in March 2024. The structural report indicated that whilst some localised areas of corrosion would need rectifying, no re-building would be required. The roof was considered to be free from significant deflection or distortion with the ground floor being of solid concrete ground bearing construction with no signs of structural defects.
16. The proposal would see the existing portal frame retained in its entirety, along with the existing masonry walls, steel purlins and concrete floor. The existing roof cladding would be replaced with plain clay tiles, and defective cladding on part of the walls would be replaced with treated timber vertical boards. A number of new openings would be inserted to provide windows and doors, which would reasonably facilitate its conversion to a dwelling. These works would fall within the scope of Q1(i) of the GPDO. The necessary works would not be excessive, and I do not consider that they would constitute a rebuild.
17. Internally, walls and partitions would be required along with an additional floor to provide first floor accommodation. However, Paragraph 105 of the PPG² states that internal works are not generally development, and for the building to function as a dwelling it may be appropriate to undertake internal structural works, such as the insertion of upper floors or internal walls, which are not prohibited by Class Q.
18. The Council have concerns regarding the revised structural report, including information regarding foundations and lack of structural calculations regarding the load-bearing ability of the frame. However, from the evidence before me,

² Planning Practice Guidance: Paragraph: 105 Reference ID: 13-105-20180615

³ Hibbitt and another v SSCLG (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

the steel frame shows no signs of any structurally significant defect. Whilst the revised structural report noted some localised areas of corrosion at the stanchion bases, these could be rectified by blast cleaning and painting. The report indicated that the main steel structure does not require any support from the proposed internal walls. Fundamentally, the existing frame is in good condition and would not require any form of reconstruction. The report also noted that the walls show no sign of significant structural movement, and that there had been no settlement of the foundations.

19. Both the original and revised structural reports concluded that the barn is in a robust structural condition and there is no reason, from a structural point of view, why it should not be converted to habitable use. From my observations when visiting the site, I am content that the report is an accurate reflection of the building's condition and I have no substantiated evidence that the building is structurally unsound.
20. Based on the evidence before me I am therefore satisfied that the barn is sufficiently robust to allow for a conversion and is capable of functioning as a dwelling. The proposed internal and external works would be reasonably necessary to convert the building to such a use. Consequently, the proposed works would not exceed the limitations set out in Paragraph Q.1(i) of Part 3 of Schedule 2 of the GPDO.

Character and appearance

21. The appeal building sits close to Rakeway Road and to a currently vacant farmhouse and additional barn building which has planning permission to form a dwelling. A roadside hedgerow boundary partially screens the building from the road. The appeal site is surrounded by fields, situated in open countryside that has a rural character and appearance. The vacant farmhouse is not listed, but the evidence before me indicates that it is part of an historic farmstead.
22. The appeal building has a functional, utilitarian appearance, but such modern agricultural buildings are not uncommon in the rural area, and Class Q applies to agricultural buildings regardless of their age or style. In terms of the proposed external appearance, the building would have vertical timber boarding and blockwork walls, which are found on many other agricultural buildings in the area. The proposal, by replacing defective wall cladding with treated timber boards, and the roof with plain clad tiles, would result in a building with a more consistent, unified external finish.
23. Whilst new window and door openings would be introduced, they are not unacceptably excessive in size or in number, with only one small window proposed in each of the side elevations. Whilst the rear and front elevations would have more openings, overall there would remain an acceptable solid to void ratio. Therefore, despite the introduction of new glazing and window openings, the proposal would not have an overly contemporary appearance, and the building would largely retain its character and its simple, agricultural form.
24. Despite its location within the landscape and in proximity to the more traditional farmhouse, the design or external appearance of the proposal would not be unsightly nor unacceptably incongruous in the rural context. As such, it would not harm the character and appearance of the area and its

location or siting would not be inharmonious nor impractical or undesirable relative to the adjoining traditional farmstead.

25. I conclude that the proposal would comply with Class Q.2(1) (e) and (f) of Part 3 of Schedule 2 of the GPDO. It would also comply with policies SS1, SS10, DC1, DC2 and DC3 of the Staffordshire Moorlands Local Plan (2020) and guidance contained within the Design Principles for Development in the Staffordshire Moorlands Supplementary Planning Guidance and the Framework, as they seek development to enhance and protect local character, local landscape and the historic environment.

Other Matters

26. The proposal would remove a farm building which could serve a working farm. However, the principle of the change of use is established by the GPDO. There is no robust evidence to suggest that access to the site would be hazardous, and I saw on my site visit that good visibility levels could be achieved when entering and leaving the site.
27. As this appeal relates to permitted development subject to a prior approval procedure, the terms of which are clearly set out within the GPDO, I consider that the proposed development would not create a precedent either for residential development in the area that would not meet the GPDO conditions, or for proposals which require planning permission that would cause harmful effects.
28. Appeal decisions have been provided by both the appellant and the Council in support of their respective cases. Whilst it is inevitable for comparisons to be made, each case will have its own site-specific circumstances and merits upon which it is considered, with the need for the decision maker to exercise their individual planning judgement. I note, for example, that in the appeal in Lancashire referenced by the Council⁴, the appellants had not submitted a structural survey in support of their proposal. In the Buckinghamshire appeal⁵, the proposal entailed the creation of new exterior walls and the demolition of existing walls. As such, these schemes do not appear to be directly comparable to that which is before me, which I have considered on its own merits.

Conditions

29. Paragraph W.(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. I have had regard to the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. I have also had regard to the tests in the Framework and relevant elements of the PPG.
30. Paragraph Q.2(3) of the GPDO stipulates that development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. A condition relating to the commencement of development is therefore not necessary.
31. To ensure certainty and clarity, it is necessary to impose a condition setting out the approved plans. To ensure that the proposal has an appropriate design

⁴ APP/U2370/W/15/3137151

⁵ APP/J0405/X/16/3150189

and external appearance, condition 2 requires details of materials, condition 3 requires details of landscaping, and condition 4 relates to boundary treatments and hard landscaping. Condition 5 relates to parking and turning spaces and is included in the interests of highway safety. Conditions 6 and 7 relating to the replacement bat roost and bat survey are included in the interests of ecology.

32. I have attached conditions 8 and 9 relating to contamination in order to protect the health of occupants of the scheme and on-site workers, and to ensure that any potential effects of ground contamination are mitigated. Conditions 10 and 11 are included to minimise noise and pollution during the construction of the approved dwelling and protect the amenity of neighbouring occupiers.
33. I have not imposed the Council's suggested condition restricting artificial lighting at the appeal site as I consider it would be unreasonable and unnecessary given the private residential use of the site.

Conclusion

34. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

L C Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with drawing Nos -01249 PL(0)01 Rev B; 01249 PL(0)02 Rev C; 01249 PL(0)03; 01249 PL(0)04.
- 2) No development above ground level shall take place until samples and details of the types and colours of all roofing, facing and hardstanding materials, and joinery details for windows and external doors have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 3) No development above ground level shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include planting plans and details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 4) Prior to the occupation of the development hereby permitted details of the positions, height, design, materials and type of boundary treatment to be erected as well as any hard landscaping shall be submitted to and approved by the local planning authority. The boundary treatment and hard landscaping shall be completed as in accordance with the approved details before the building is occupied, and retained thereafter.
- 5) Prior to the occupation of the development the vehicle parking spaces and turning area shall be provided in accordance with drawing no 01249 PL(0)01 Rev B. Thereafter the parking spaces and turning area shall be retained for the parking and turning of vehicles only and shall not be blocked.
- 6) The 'Replacement Bat Roost' as shown on above approved drawing reference 01249 PL(0)01 Rev B shall remain for the purposes of bat roosting for the lifetime of the development and shall at no time be converted into living accommodation, storage space or any other purposes.
- 7) The development shall be carried out in accordance with the Mitigation Design methods as set out within the Bat Survey dated 17th January 2024 by S. Christopher Smith.
- 8) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes

have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

- 9) No top soil or fill material is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development, a suitable methodology for testing this material should be submitted to and agreed by the local planning authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validity evidence submitted to and approved in writing by the local planning authority.
- 10) Demolition and construction works, including landscaping which generates noise that is audible at the site boundary, shall take place only between the hours of 08:00 – 18:00 on Monday to Friday; 08:00 – 13:00 on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 11) The development shall be carried out in accordance with the following measures:
 - i) During construction/demolition phases amplified music and/or radios shall not be audible beyond the site boundary;
 - ii) Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment. All waste transfer records should be retained for inspection by officers of the local planning authority.
 - iii) No activity hereby permitted shall cause dust to be emitted beyond the site boundary so as to adversely affect adjacent residential properties and/or other sensitive uses and/or the local environment. In the event dust is caused to escape the site boundary the activity shall be stopped until sufficient dust suppression has been undertaken to prevent further escape. There shall always be the appropriate means and sufficient water resources on site for dust suppression. These should be made available for inspection when required by officers of the local planning authority.

***** END OF SCHEDULE *****