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# Appeal Decision

Site visit made on 17 January 2018

**by Thomas Hatfield BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14<sup>th</sup> February 2018**

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**Appeal Ref: APP/E2734/W/17/3181890**

**Little Acres Farm, Bedlam Lane, Staveley, HG5 9JU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mr Jon Nixon against the decision of Harrogate Borough Council.
  - The application Ref 17/01413/PBR, dated 27 March 2017, was refused by notice dated 30 May 2017.
  - The development proposed is notification for prior approval for a change of use of an agricultural building to 2 No dwellings.
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## Decision

1. The appeal is allowed and prior approval has been deemed to be granted under the provisions of Article 3, Schedule 2, Part 3, Class Q(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 for a change of use of an agricultural building to 2 No dwellings at Little Acres Farm, Bedlam Lane, Staveley, HG5 9JU in accordance with the terms of the application Ref 17/01413/PBR, dated 27 March 2017, and the plans submitted with it.

## Procedural Matters

2. No description of development is provided in the application form. The description given above is therefore taken from the appeal form and the Council's Decision Notice.
3. A previous appeal decision for the conversion of another barn at the same site<sup>1</sup> found that the site was being used as a farm on 20 March 2013. I have therefore considered the appeal on this basis.

## Application for costs

4. An application for costs was made by Mr Jon Nixon against Harrogate Borough Council. This application will be the subject of a separate Decision.

## Main Issues

5. The main issues in this appeal are:

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<sup>1</sup> APP/E2734/W/15/3004536

- (a) Whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), with particular regard to whether the extent of the proposed structural works to the building go beyond those permitted under Class Q;
- (b) Whether a determination was made by the Council within the 56-day statutory period; and
- (c) Whether Prior Approval should be given under section Q.2(1) in respect of whether the location or siting of the building makes it impractical or undesirable to change from an agricultural use to a use falling within Class C3 (dwellinghouses).

## **Reasons**

### *Structure of the existing building*

- 6. Class Q(b) permits building operations reasonably necessary to convert the building to a dwellinghouse. However, 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: (i) the installation or replacement of — (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out the building operations allowed.
- 7. The Planning Practice Guidance ('PPG') provides further clarification in this regard. It states 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 (paragraph ID 13-105-20150305).
- 8. The appeal building is steel framed and has external walls that consist partly of blockwork. It is a relatively substantial structure, and the appellant's investigations indicate that significant concrete raft foundations exist. A Structural Appraisal Report has also been submitted that confirms that the building is capable of conversion. This states that the existing blockwork walls would be largely retained, and I note that the rendered areas indicated on the submitted plans are consistent with the position of the existing blockwork. I have therefore considered the appeal on this basis.
- 9. The conversion would involve the demolition of the central part of the existing building in order to create 2 detached properties. This would necessitate the construction of new gable walls to both proposed dwellings. However, Paragraph Q.1.(i) allows for the installation of exterior walls and partial demolition to the extent reasonably necessary to carry out the building operations allowed. Moreover, the submitted Structural Appraisal Report states that these walls could be of lightweight timber framed construction off the existing floor slab. New foundations would therefore be unnecessary, and the new walls would not be load bearing. In my view, the proposed alterations would fall within the scope of Paragraph Q.1.(i).

10. It is proposed to install new internal floors to create 2 storey dwellings. However, the internal works that are proposed would not materially affect the building's appearance, or effectively amount to the creation of a new building. Accordingly, in my view, the internal works do not need to be covered by Class Q as they would not constitute development.
11. The Council has drawn my attention to 2 recent appeal decisions<sup>2</sup> that relate to the application of Class Q. The full details of those cases are not before me, and it is therefore unclear whether they are directly comparable to the current appeal proposal. However, I note that the Wycombe case related to a building that was largely open on one side and contained other large full height openings. That is not the case here, and I do not consider that the current proposal would amount to the substantial re-building of the existing structure.
12. For the above reasons, I conclude that the extent of the proposed structural works to the building do not go beyond those permitted under Class Q.

#### *56 day statutory period*

13. The Council's Decision Notice states that the original application was received on 29 March 2017. The appellant further states that they received confirmation from the Council via email that the application had been received on 3 April 2017. Assuming the latter date, the Council had until 29 May 2017 to issue a determination within the statutory 56-day period.
14. The Council's determination came 57 days after receipt of a valid application, on 30 May 2017. It therefore failed to make a determination within the statutory 56-day period. As I have found that the proposal would be permitted development under Class Q, on expiry of the 56 days, the development was deemed to have been granted permission subject to the standard GPDO conditions.
15. As the statutory 56-day determination period had expired and the Council's refusal to grant prior approval came too late to have any legal effect, there is no basis upon which to assess the third main issue. I have therefore given no further consideration to whether the location or siting of the building makes it impractical or undesirable to change to a use falling within Class C3.

#### **Other Matters**

16. There would be space to accommodate parking within the site, and the level of traffic associated with the development would be modest. I further note that the Highway Authority have not objected to the development on these grounds.
17. Concerns have been raised about the discharge of water from the site into a local water course, and the location of the site outside of a village boundary. However, these are not relevant considerations under the provisions of Class Q.

#### **Conclusion**

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

*Thomas Hatfield*

INSPECTOR

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<sup>2</sup> APP/K0425/W/15/3006285 and APP/E2734/W/16/3149251