

Appeal Decision

Site visit made on 7 April 2016

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 31 October 2016

Appeal Ref: APP/E2001/W/15/3141324

Agricultural Building South East of Drewton Manor, South Cave, Brough, East Riding of Yorkshire, HU15 2AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal 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 Chris Taylor against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/15/02860/AGRNOT/WESTES, dated 7 September 2015, was refused by notice dated 23 November 2015.
 - The development proposed is the change of use of an agricultural building to form 3 dwelling houses, including operational development.
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Decision

1. The appeal is dismissed.

Main Issues

2. The National Planning Practice Guidance advises the starting premise for Class Q is that the permitted development right grants planning permission, subject to the prior approval requirements. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) require the local planning authority to assess the proposed development in respect of transport, highways and noise impacts of the development, and also the flooding and contamination risks on the site, and whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to that of 3 dwelling houses. It is also necessary to assess whether prior approval would be required regarding the design or external appearance of the building.
3. As a consequence, in this instance the main issues are;
 - Whether the agricultural building is capable of conversion to a dwelling in accordance with the extent of works set out as permissible as defined in paragraph Q.1 of the GPDO; and,
 - If permitted development, whether prior approval is required in relation to the conditions set out in paragraph Q.2 of the GPDO.

Reasons

4. The appeal relates to a large three bay agricultural building positioned within a wider complex of cottages and buildings, many of which appear to have been
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converted from former agricultural buildings for the purposes of residential and office occupation. I observed the appeal building to be in use for storage including for various items of agricultural equipment.

5. The appellant has highlighted that that the proposals amount to the resubmission of a scheme following an earlier dismissed appeal from July 2015 (Ref. APP/E2001/W/15/3012005). In this respect it is indicated by the appellant that he is essentially seeking to address the matters raised by the previous Inspector which led to the dismissal of the appeal. These were indicated as being the proximity of the proposed 3 dwellings to the sections of the agricultural building which were not required to facilitate the conversion to residential accommodation, and the consequent effect on the living conditions of future occupiers in respect of noise, smells and general disturbance.

Is the proposal permitted development?

6. In principle, permitted development rights apply to the change of use of a building and any land within its curtilage, to allow its residential conversion, including building operations deemed reasonably necessary to convert the building, as set out at Schedule 2, Part 3, Class Q(a) & Q(b) of the GPDO.
7. Paragraph Q.1 of the GPDO contains a list of exclusions as to when development would not be permitted under Class Q. In this respect, the Council has not identified conflict with any of the exclusions other than paragraph Q.1(i). Paragraph Q.1(i)(i) sets out to establish whether the extent of building operations would be reasonably necessary for the building to function as a dwellinghouse, whilst paragraph Q.1(i)(ii) addresses whether the partial demolition would be to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
8. The appellant has indicated that the proposed works of demolition of the existing agricultural building are as a means of resolving the outstanding issues related to the living conditions of future occupiers as raised by the Inspector in the 2015 appeal. Whilst I do not dispute that the demolition proposed would be partial in the context of the existing building, I am mindful that paragraph Q.1(i)(ii) requires said demolition to be to *the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i)*. On the basis of the appellant's submissions, there is no evidence that the additional demolition of the two bays of the existing building as proposed would be in order to allow the building operations to be carried out in connection with the building functioning as a dwellinghouse. The extent of the demolition would appear to be to facilitate the change of use itself in response to the issues raised in the 2015 appeal decision regarding the impact on living conditions. In this respect, I consider on the basis of the evidence before me, that the proposed extent of demolition would exceed that envisaged by paragraph Q.1(i)(ii) of the GPDO.
9. Turning to the extent of building operations required, I am mindful that the Inspector in the 2015 appeal decision concluded that, in the absence of any evidence to show that the use of the existing steel frame was not structurally strong enough to take the loading associated with the external alterations, the works of conversion would accord with paragraph Q.1(i). The Council has now however identified the absence of information related to whether the retained concrete frame of the building would be capable of taking the load of the development on its own as a constituent part of the reason for refusal. Whilst I have had regard to the Council's contention that the Structural Appraisal

submitted with the appeal should not be accepted as part of the appellant's evidence, I am satisfied that its submission is in response to the Council's reason for refusal.

10. In assessing the extent of the building operations, I have carefully considered the wording of the GPDO and Planning Practice Guidance (PPG). I am mindful that the PPG seeks to make a distinction between structural and non-structural works, whilst the GPDO itself does not. Nevertheless, it is clear from the PPG that the intention is that particularly extensive rebuilding of an agricultural building would be likely to go beyond the conversion of the building, and would therefore fall outside the permitted development right within Class Q.
11. The appellant's structural appraisal indicates that the precast reinforced concrete frame would remain in place, but would be supplemented by two load-bearing walls to support the increased roof loads, as well as the existing concrete purlins being supplemented using steel purlins. Further works to provide lateral stability and additional support over the open plan living areas in the form of twin steel beams are also indicated. However, no further works to the foundations would be required as a consequence of the new load-bearing walls.
12. I have had regard to the Council's submissions regarding the extent of the proposed building works. Whilst I accept that the proposed external works would be significant, I am satisfied that, consistent with the conclusions reached by the Inspector in the 2015 appeal decision, the installation of windows, doors, roofs, exterior walls, and services would be permitted under Class Q, to the extent that they would be reasonably necessary to allow the conversion. Turning to the concrete frame, the Council has cited the need for structural alterations to the existing frame in the form of a reduction to its height and further support due to potential weakening of the concrete over time. However, I am mindful that a reduction in the height of the existing concrete frame could conceivably be incorporated within the expectations of partial demolition in accordance with Class Q. Furthermore, in the absence of any contrary detailed technical evidence disputing the conclusion of the structural appraisal, I am minded to accept the appellant's contention that the retained extent of the concrete frame provides an appropriate structural basis for the conversion of the building to a dwelling, and that the works would be in accordance with Class Q in this respect.
13. Turning to the matter of the curtilage, the Council has highlighted within a reason for refusal that the proposed curtilage would not accord with the definition as set out in the Interpretation of Part 3 of the GPDO, at paragraph X. Class Q(a) addresses development as consisting of a change of use of a building and any land within its curtilage, with curtilage defined as being "*the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building...*" or "*an area of land no larger than the land area occupied by the agricultural building, whichever is the lesser*". In this respect, the Council has assessed that the proposed curtilage garden would comprise 1027m², whereas the proposed building would measure 333m², and would therefore not accord with either of the conditions of the definition.
14. I have carefully considered the appellant's contention that the Council has misapplied the definition in seeking to utilise the area of the "proposed" building as a basis for assessing the acceptability of the extent of the proposed

curtilage, rather than the agricultural building and land prior to the proposed change. In this respect, I would accept that paragraph X of the GPDO in seeking to define curtilage does not make any reference to the proposed building, identifying instead the agricultural building. Nevertheless, the appellant is seeking to justify the extent of the proposed curtilage on the basis that the entire agricultural building, including those parts which are not being converted and are to be demolished, should be used for the purposes of defining the area of curtilage.

15. I am mindful of paragraph Q.1(b) of the GPDO, which sets out that development is not permitted where the existing building to be converted exceeds 450m². This exclusion clearly places a limit on the extent of a building or part of a building deemed as acceptable for conversion under Class Q, and by extension places a practical limit on the amount of curtilage. I would conclude therefore that the policy intent is that the area of curtilage is limited to the building area which is changing use only, and that the extent of curtilage permissible must therefore be linked to this calculation. As a consequence, I am satisfied that the extent of curtilage proposed by the appellant in this instance would not accord with the definition at paragraph X of the GPDO.
16. On the basis of the evidence before me, I am satisfied that the retained structural parts of the proposed building and extent of building operations would be capable of according with paragraph Q.1(i)(i). However, I have found that the proposed extent of demolition would exceed that envisaged by paragraph Q.1(i)(ii) of the GPDO, and that the curtilage as proposed would not accord with the definition of curtilage as set out at paragraph X of the GPDO. As a consequence, I conclude that the development as proposed would not be permitted development in accordance with Class Q(a) and Class Q(b).

Is prior approval required?

17. With regards to the matters of prior approval as set out at paragraph Q.2, I note that the Council has not raised any objection to the conditions listed. However, as a consequence of my conclusions in respect of paragraph Q.1, there is no requirement to further consider whether the proposed conversion would be compliant with the conditions as set out at paragraph Q.2, as the permitted development right does not exist in this instance.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, the appeal should be dismissed.

M Seaton

INSPECTOR