

Appeal Decision

Site visit made on 7 November 2016

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 15th November 2016

Appeal Ref: APP/V4630/W/16/3157530

Barn at Meeke's Farm, 75 Pelsall Lane, Rushall, Walsall, WS4 1NE

- 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 Ms R & J Meeke against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 16/0179, dated 5 February 2016, was refused by notice dated 8 March 2016.
 - The development proposed is change of use of an agricultural building and associated building conversion works to create two dwelling houses.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council altered the description of development during the course of the application. However, it is clear from the application form and the submitted plans that the proposal relates to the erection of 2 dwellings, and I have therefore altered the description of development to reflect this.

Main Issue

3. The application is made for the change of use of the building and for the building operations reasonably necessary to convert the building to 2 dwellings. The Council consider the building is not capable of functioning as a dwelling and consequently the proposal would not constitute permitted development under the provision of Class Q. In order for me to determine the appeal I must therefore consider first whether the proposal satisfies the conditions, limitations and restrictions set out in Class Q and if so, whether it also satisfied the conditions specified in Part Q.2. Conditions (I). In particular, the Council have expressed concerns in relation to the practicality of the proposal given the use of nearby buildings, and the impacts of the proposal in relation to flooding and the effects of contamination.
 4. Accordingly, the main issue for the appeal is whether the proposal is permitted development, having regard to the change of use and whether the building operations proposed.
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Reasons

5. The Council dispute whether the site and building are in agricultural use. In support of the application the appellant has submitted details of the wider agricultural holding and recent documentary evidence showing that the land, which includes that around the appeal building, is subject to payments from the Rural Payments Agency as an agricultural holding. In coming to a view I take into account case law¹ which supports the view that for the purposes of the General Permitted Development Order an agricultural unit is not the same as the planning unit. I am therefore satisfied that although the part of the holding in which the building sits is remote from the majority of the wider holding, it is nonetheless a building within an agricultural holding.
6. The building sits within a wider group of buildings which are currently in a variety of uses. These include a cattery, a horse livery business, and an established use for vehicular repairs. However, the submitted plan shows the site as encompassing the appeal building only and does not include any of these adjoining buildings. The Council appear to accept that the appeal building within the red line is still used for agricultural storage, and at the time of my visit I noted that it was being used to store agricultural items. It therefore follows that the proposal meets the tests outlined in Part Q.1 (a).
7. The development right described in Part Q relates to conversion of a building. For that right to apply the building must first be capable of functioning as a dwelling. The appeal building has 2 single skin brick gables and is enclosed to the front with a series of timber doors. The rear elevation is open to the adjoining lean-to storage shed. The proposal would comprise the replacement of the roof and the enclosure of the front elevation with aluminium glazing panels. The rear elevation would also be enclosed with a new wall. The proposal would not enlarge the existing structure.
8. *Planning Practice Guidance* (the PPG) refers to some building operations being permitted under Class Q (b), including the installation of windows, doors and exterior walls to the extent reasonably necessary for the building to function as a dwelling house. The PPG also states that "It is not the intention for 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".
9. I noted during my visit that the building had a concrete floor and a series of timber uprights which supported an asbestos roof. It also had two single skin brick gables either end which to one side formed part of the side wall of the adjoining garage. The application is supported by a statement from an architectural services firm, who have assessed the building, and concluded that the building is structurally solid and in good condition. As such, the appellant contends that the building would not require any additional structural support and on this basis would not conflict with the above guidance. However, this assessment appears to me to be rather cursory. The proposal would comprise the erection of external walls, doors and windows along the longer front and rear elevations. It would also require a new roof, including a large number of glazed roof lights and a separating wall between the 2 dwellings. However, I

¹ Fuller v SSE and Dover DC

have not been provided with any details of the building foundations, any calculations of the predicted load the existing foundations would be required to support, or any assessment of the load bearing capacity of the floor or the existing frame. It therefore seems to me that although the proposal would comprise only elements necessary for the building to function as a dwelling, based on the information before me, I am unable to conclude that the extent of works necessary would not comprise new structural elements. I am therefore unable to conclude that the works necessary to create a dwelling from the structure on site would fall within the scope of that permissible under Part Q. Accordingly, they would not be permitted development under Class Q(b).

10. The Council have also raised concerns in relation to the suitability of the building for residential use, given its position adjoining a number of other uses. I noted on site that the building sits close to a cattery and livery, and faces onto the main farmyard which includes parking for these uses. It is also immediately adjoined by a building I am advised is used for vehicular repair. At the time of my visit these uses were not causing any disturbance, and had no visitors. However I take into account the size and proximity of these uses, the potential they have for generating noise and activity, and the fact that the properties would have a largely glazed frontage which would open immediately onto the yard. In these circumstances future occupiers of the properties would be at risk of disturbance from the operation of these uses which would be likely to be harmful to living conditions.
11. Furthermore, the rear of both of the proposed dwellings would be immediately adjoined by a lean-to building which is proposed for retention in agricultural use. At the time of my visit it was used for the storage of straw. Although its dimensions limit the range of activities it could be used for, it is nevertheless still capable of agricultural use. Use of the building for agricultural purposes would be likely to give rise to noise and disturbance, which due to the immediate proximity of the proposed dwellings would detract from the living conditions of occupiers of the proposed dwellings. Such disturbance would go beyond that normally expected from living in a rural environment and would intrude upon normal living conditions to a harmful degree.
12. I have considered whether a condition prohibiting the use of the adjoining building for the keeping or shelter of animals, or for the operation of machinery, would overcome this concern. However, the building falls outside the appeal site, and although the two buildings are currently in the same ownership, and I am advised are intended to be occupied by family members, I have no indication that this would continue to be the case following conversion, making such a condition unenforceable.
13. Finally, I note the Council's views as to whether concerns in relation to flooding or contamination make it undesirable for the change of use to occur. However, as the proposal already fails for the reasons stated above, It is not necessary to consider the matter in any further detail.
14. Therefore, for the reasons given above I conclude the appeal should be dismissed.

Anne Jordan

INSPECTOR