
Appeal Decision

Site visit made on 20 October 2016

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 18 November 2016

Appeal Ref: APP/J3720/W/16/3153579

Alne Hills Farm, Great Alne, Alcester, Warwickshire B49 6JS

- 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 (GPDO).
 - The appeal is made by Mr Mark Turner against the decision of Stratford on Avon District Council.
 - The application Ref 15/03856/COUQ, dated 19 October 2015, was refused by notice dated 16 December 2015.
 - The development proposed is the change of use of an agricultural building to a dwellinghouse utilising an existing access and for associated operational development.
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Decision

1. The appeal is dismissed.

Procedural matter

2. Class Q(a) relates to the change of use "of a building and any land within its curtilage". For the purposes of Class Q "curtilage" means the piece of land immediately beside or around the building which is closely associated to it, or an area of land immediately beside or around it no larger than the area occupied by the building, whichever is the lesser. Plan ref 15-002-01 submitted with the application identifies a curtilage that complies with this definition.

Main Issues

3. Class Q of the GPDO grants permission for the change of use of an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, together with specified building operations to the extent reasonably necessary to convert the building.
 4. Planning Practice Guidance (PPG) advises that 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 GPDO require that where a development is proposed under Class Q(a) ('change of use') and Q(b) ('buildings operations reasonably necessary to convert the building') the developer must apply to the local planning authority for a determination as to whether prior approval is required in relation to several matters (Q.2.(1) (a) to (f)). On the basis of the title of the application form and submitted information, I have determined the appeal on the basis that the application was made under both Class Q (a) and (b).
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5. The Council has refused prior approval on the basis that, in its view, the building has been substantially rebuilt without planning permission and is thus unlawful. Where a building has been constructed unlawfully section 3, paragraph 5(a) of the GPDO states that the permitted development rights in the GPDO do not apply. The Local Planning Authority has not gone on to assess whether the proposal would fall within development permitted under Schedule 2, Part 3, Class Q of the GPDO and would not be excluded by paragraph Q.1, or whether prior approval is required in relation to the criteria listed in Q.2.(1)(a) to (f). The main issues in this appeal therefore are;
- whether the building operations involved in the construction of the agricultural building were lawful such that the proposed change of use would fall within development permitted under Schedule 2, Part 3, Class Q of the GPDO and would not be excluded by paragraph Q.1; and,
 - if lawful and not excluded under Class Q, whether prior approval is required in relation to the criteria listed in Q.2.(1)(a) to (f).

Reasons

Is the building lawful?

6. The building is a single storey steel framed structure with a sheet metal roof and partly clad sides. In 2008 the building was damaged by gales. In 2010 two of the four roof trusses were removed. Work was subsequently carried out so that by the end of 2014 the building had been restored with a re-clad roof and cladding extended along its western side. Throughout this period the steel structure to eaves level, together with the brick panels that help provide longitudinal stability and half of the roof structure, remained in place. As a matter of fact and degree, I therefore conclude that the works that were carried out were works of repair and do not amount to substantial rebuilding. The building is therefore lawful and permitted development rights under Schedule 2, Part 3, Class Q of the GPDO, subject to the relevant restrictions and conditions, apply to it.

Paragraph Q1

Agricultural use

7. The appellant states that the building was in agricultural use on 20 March 2013 as part of the established agricultural unit of Aine Hills Farm. This has not been challenged by the Council. During the site visit, I saw that the building was in use to store agricultural equipment and materials. As such, the building complies with paragraph Q.1(a) of the GPDO.

Building operations

8. Paragraph Q.1(i) states that development is not permitted by Class Q if it would consist of building operations other than (i) the installation or replacement of windows, doors, roofs, or exterior walls... to the extent reasonable necessary for the building to function as a dwelling house; and (ii) partial demolition to the extent reasonably necessary to carry out the building operations described.
9. Planning Practice Guidance (PPG) provides government advice on how the Class Q permitted development right should be applied. I therefore attach significant weight to it. It advises that it is not the intention of the permitted development right to include the construction of new structural elements for the building. As a result, it advises that 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 right¹.

10. The sides to the single storey steel framed building are half clad in timber or metal sheeting and half left open. Two short brickwork panels are present on opposite sides of the building that help provide longitudinal stability to the building. Based upon its construction, the presence of drainage channels within the concrete floor slab, and remnants of equipment, the structural appraisal of the building identifies that it was built around the middle of the C20th as a milking parlour. The side of such buildings, the appraisal notes, were typically clad in timber with large door openings. During the site visit, other than the two short brickwork panels, I saw no remnants of wall foundations or other evidence to indicate that the building had once been enclosed by brick built walls.
11. The proposed conversion would involve the installation of brick built exterior walls to all sides of the building. I am mindful, in this regard that that the installation of exterior walls, or their replacement, is permissible under Class Q(b). In this case, however, the proposed walls would not be built off the concrete floor slab and there is no reference in the appraisal to the presence of foundations around the perimeter of the building that the walls could be built off. Indeed, the structural appraisal notes that foundations would need to be formed for the proposed infill wall panels². The excavation and installation of foundations are not included in the list of operational development in paragraph Q.1(i). Whilst the appellant argues that the foundations would be part of the walls, I do not agree. They are specifically required to be installed in this instance in order to support the new walls. In so doing, it seems to me that the foundations would constitute new structural elements contrary to the advice in PPG. The proposed conversion would therefore not constitute development that is permitted by Class Q and would be contrary to PPG. In reaching this conclusion, I note that my finding in relation to new foundations constituting structural works, contrary to PPG, is consistent with an appeal decision in relation to a similar conversion to which I have been referred³.
12. Furthermore, the installation of brick exterior walls along all sides of the building, in my judgement, would constitute works that would be so extensive as to amount to substantial reconstruction of the existing building. As a result, they would go beyond that which could be considered to be 'reasonably necessary for the building to function as a dwellinghouse' in paragraph Q.1(i).
13. Reference has been made to Kingsmead Farm, where it is stated that extensive engineering works shown in a photograph were allowed by the Council as part of a residential conversion of a barn under the GPDO. However, approval for that proposal was granted before the paragraph to which I have referred in Planning Practice Guidance was published. Consequently, reference to this approval has not altered my findings in relation to this issue.
14. The absence of a five year housing land supply is alleged by the appellant. However, as the GPDO effectively grants planning permission subject to certain restrictions and conditions, unlike in appeals against the refusal of planning

¹ Paragraph: 105 Reference ID: 13-20150305

² Structural Appraisal, page 5 , final sentence

³ Ref APP/J3720/W/16/3144573

permission, such a consideration is not relevant to the decision making process in this appeal.

15. As the proposed conversion would not constitute development that is permitted by Class Q, it is unnecessary to go on and determine whether prior approval is required in relation to the matters listed in paragraph Q.2.(1).

Conclusion

16. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector