
Appeal Decision

Site visit made on 13 December 2016

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 30 December 2016

Appeal Ref: APP/Y3615/W/16/3158929

High Ryde Farm, Old Lane, Mays Green, Cobham, Surrey KT11 1NJ

- 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.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mark Reid against the decision of Guildford Borough Council.
 - The application Ref 16/W/00071, dated 25 July 2016, was refused by notice dated 16 September 2016.
 - The development proposed is change of use from agricultural building to dwellings (C3 Use class).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposed development on the Council decision notice differs from that given by the Appellant in response to question 4 of the application form. In accordance with normal practice, I have used the latter in the header to my decision. From the details submitted with the application it is clear, however, that the proposal includes the creation of 3 dwellings and includes building operations as well as the change of use. I have determined the appeal on this basis.
 3. The application was submitted under procedures set out in Class Q of Schedule 2, Part 3, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('Class Q' of the 'GPDO'). This specifies in summary that the change of use of an agricultural building (under Class Q(a)), and building operations which are reasonably necessary to convert the building (under Class Q(b)), may be undertaken as 'permitted development' in certain circumstances. To benefit from these rights, the development must firstly comply with all the limitations and restrictions set out in Class Q.1.
 4. The Council's decision notice claims that the proposal would fail to comply with specified parts of Class Q.1. It also operates as a statement that prior approval is required and refused in relation to specified parts of Class Q.2. As the proposal cannot be 'permitted development' under Class Q unless it complies with all the parts of Class Q.1 I have considered this matter first in my decision. I only need to address the issues concerning Class Q.2 if the proposal would satisfy all the criteria in Class Q.1.
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5. At my site visit, it appeared that some parts of the building had been subject to recent maintenance or building works. Whilst the elevations of the building did not match those on the 'existing elevations' drawing they were also not consistent with the changes shown on the 'proposed elevations'. I have therefore determined the appeal on the basis that the development subject to appeal has not commenced.

Main Issues

6. The first main issue is whether, having regard to paragraphs Q.1(g) and Q.1(i) of Class Q, the proposal would fall within the scope of Class Q 'permitted development'.
7. If I find that the proposal would fall within the scope of Class Q 'permitted development', this would then lead on to a second main issue. This would be whether prior approval should be granted as to the matters set out in paragraphs Q.2(a), Q.2(e) and Q.2(f) of Class Q.2.

Reasons

Would the proposal fall within the scope of Class Q 'permitted development'?

8. The appeal building is a low lying timber structure, identified as having been used as a poultry barn¹. At the time of my site visit the building was disused and in a dilapidated condition. The appeal proposal would create 3 new dwellings, each of which would have 3 bedrooms and an 'open plan' style living/kitchen/dining room.
9. Paragraph Q.1(i) of Class Q excludes building operations from being 'permitted development' under this Class unless they would be for '*...the installation or replacement of windows, doors, roofs, or exterior walls..... to the extent reasonably necessary for the building to function as a dwellinghouse...*'. Any demolition must be of a nature which is reasonably necessary to carry out such building operations.
10. The Planning Practice Guidance² 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...*'.
11. The Appellant has argued that the frame of the existing building can form the principal structural elements in any conversion. In this context, I noted at my site visit that, whilst much of the roof and parts of the walls of the existing building were missing, structural support was still provided by the internal timber frames and support posts, which appeared substantially intact.
12. However, the plans indicate that the wall which runs along the entire length of the long, eastern elevation of the building would be removed and replaced with a new wall. There is no indication that any of the timber framing which provides support along the line of the existing wall would be kept. Whilst the existing wall runs along the inner edge of what remains of the extensive eaves overhang on this elevation, the new wall would run along a completely new

¹ Council officer report on the application

² Paragraph: 105 Reference ID: 13-105-20150305

alignment, along the outer edge of this overhang. Following the removal of the existing wall, this new wall is likely to play an important structural role on this side of the building. Furthermore, the proposed plans also do not indicate that the numerous free standing internal support posts within the building, which are also likely to play an important structural role, would be kept.

13. In the absence of convincing evidence to the contrary, I consider that the works as a whole would be likely to rely on the creation of substantial new structural elements. It is also not reasonably necessary to expand the footprint of the building as proposed to create sufficient space for one or more dwellings to be provided. Similarly, the proposed changes to the pattern of window and door openings on the elevations of the building would be very substantial and go well beyond what would be reasonably necessary in this respect.
14. Taking all these points into account, even if the building is capable of being converted to residential use, the extent of the proposed building operations would go beyond what would be 'reasonably necessary' for the building to function as a dwelling. The proposed works would therefore, having regard to the wording of Class Q(b) and paragraph Q.1(i), fall outside the scope of Class Q permitted development.
15. I have carefully noted the extracts of other appeal decisions provided by the Appellant. However, the details and circumstances of those proposals do not replicate those of the current appeal proposal, for example in relation to the nature of construction of the relevant buildings and the extent to which new structural elements would be involved. I have in any event considered the appeal as I must on its own merits having regard to the specific building operations proposed.
16. The parties have also drawn my attention to paragraph Q.1(g), which excludes development from falling into Class Q if it would result in the external dimensions of the building extending beyond those of the existing building at any given point.
17. The proposed development would cover a larger footprint than the existing building, as it would fill in the area under the eaves overhang on the eastern elevation. Whilst the roof covering of this eaves overhang was missing at the time of my site visit the structural roof timbers of the building extended over this area. The development would not extend beyond the external dimensions of the building as defined by the furthest extent of these roof timbers. For this reason, the proposed development would comply with the limitation in paragraph Q.1(g). This does not, however, outweigh my earlier findings.

Should prior approval be granted under Class Q.2?

18. I have found that the proposed development would not satisfy all the limitations on Class Q development set out in Class Q.1. As a result, the proposal would not constitute 'permitted development' under Class Q and prior approval cannot be granted under Class Q.2.

Other Considerations

19. I agree with the Appellant that the proposal would make a positive contribution towards the supply of housing in the area. I have also noted the comments of the parties concerning other matters such as: flooding; noise; contamination; sustainability; highways; the location of the building; design and external

appearance; lighting; energy; prior approvals granted for proposals on other sites; and the National Planning Policy Framework. However, none of these points demonstrate that the proposal would comply with the limitations relating to Class Q permitted development rights referred to earlier in my decision.

Conclusion

20. As the proposed development would not satisfy all the limitations on Class Q development set out in Class Q.1, it would not constitute permitted development under this Class and would require an express planning permission. Prior approval cannot be granted in these circumstances under Class Q.2.

21. I therefore dismiss the appeal.

Jonathan Clarke

INSPECTOR