
Appeal Decision

Site visit made on 21 November 2016

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 06 January 2017

Appeal Ref: APP/P2935/W/16/3157544

Old Town Farm, Old Town, Otterburn, Northumberland NE19 1JZ

- 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 K Kirsopp-Reed against the decision of Northumberland County Council.
 - The application Ref 16/01949/AGTRES, dated 3 June 2016, was refused by notice dated 1 August 2016.
 - The development proposed is the dismantling of part of existing structures (as covered under prior approval for demolition) and conversion of remaining structure to residential use.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for the dismantling of part of existing structures (as covered under prior approval for demolition) and conversion of remaining structure to residential use at Old Town Farm, Old Town, Otterburn, Northumberland NE19 1JZ, dated 3 June 2016, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: OTF/08/LP/01 – Location Plan, OTF/08/EBP/02 – Existing Block Plan, OTF/08/PBP/03 – Proposed Block Plan, OTF/08/EPE/04 – Existing Plans and Elevations, OTF/08/PPE/05 – Proposed Plans and Elevations (showing structure retained).
 - 2) The development shall be implemented in accordance with the recommendations and mitigation measures within the Old Town Farm, Otterburn, Proposed Development, Bat and Barn Owl Risk Assessment, dated January 2016.
 - 3) No dwelling shall be occupied until details of refuse storage facilities and a refuse storage strategy have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the refuse storage facilities intended to serve that dwelling has been provided in accordance with the approved details. The refuse storage facilities and refuse storage strategy shall thereafter be retained.
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Application for Costs

2. An application for costs was made by Ms K Kirsopp-Reed against Northumberland County Council. This application is the subject of a separate Decision.

Background and Main Issue

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 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).
5. The appellant has referred to the Council's alleged failure to comply with paragraph W(11)(c) of Schedule 23, Part 3 of the GPDO insofar as the Council did not notify the applicant as to whether prior approval was given or refused within the requisite 56 days from the date that the application was received by the Council. In these circumstances, and in accordance with the case law in *Murrell v SSCLG*¹, development within the scope of Class Q may go ahead as the GPDO grants deemed planning permission for such development where the Council has failed to give notice of its decision within the prescribed period.
6. However, even though I concur that the statutory period expired before the Council issued the decision notice, I must be satisfied that the proposal falls within the scope of development permitted by Class Q. If I am not satisfied that the proposal falls within the scope of permitted development, then even though the statutory period has expired, the appeal must fail.
7. Accordingly, the main issue is whether the proposal would be permitted development as provided for by Schedule 2, Part 3, Class Q of the GPDO.

Reasons

8. Class Q.1 (i) of the GPDO states that development is not permitted by Class Q if the development under Class Q (b) would consist of building operations other than: the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1 (i) (i).
9. Further guidance in respect of this matter is provided within PPG insofar as it is stated that it is not the intention of the permitted development right to include

¹ *Murrell v SSCLG* [2010] EWCA Civ 1367

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.

10. It was evident from my site visit that the building works required in order to convert the existing structure into two residential dwellings would be relatively extensive. Despite this, I consider that the works being proposed would all fall within the list of operations set out in paragraph Q.1(i).
11. In their submitted evidence, the Council states that the proposal amounts to two 'new build' dwellings as the Council contend that the majority of the existing building is to be demolished. I accept that demolition² is to take place, however whether or not that would constitute 'new build' is a matter of fact and degree. The Council requested that the applicant confirm which part of the existing building was to be retained and this was supplied through the submission of drawing OTF/08/PPE/05 – Proposed Plans and Elevations (showing structure retained).
12. From the submitted drawing, and from observations made on site, I consider that a substantial amount of the existing structure would remain. The appellant has further confirmed that the dwellings will retain the steel columns and foundations, rafters and purlins, the concrete slab, existing block walls and foundations, sheeting rails and bracing. I therefore consider, as a matter of fact and degree, that the proposal would only amount to a partial demolition, which would therefore comply with the GPDO.
13. Turning to the structural elements of the development, I saw that the steel frame is substantial and without evidence to the contrary, accept that external building works would not require the basic structure of the building to be rebuilt or strengthened. Furthermore, the proposed works would be necessary to enable the building to function as a dwelling.
14. Accordingly, I find that the required building operations are reasonably necessary for the building to function as a dwellinghouse. As such, the conversion would meet the requirements of Class Q (b).
15. The Council has raised no concerns in relation to compliance with the criteria listed in Q.2 (1)(a) to (f). Based on the evidence before me and my own observations, I have no reason to take a different view.
16. On this basis I conclude that the conversion would be in accordance with paragraph Q.1 (i) and as such would be permitted development.

Conditions

17. Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date. It is not therefore necessary for me to impose a condition relating to this matter as it is referred to in the GPDO. Plans were submitted at planning application stage and it is necessary to impose a planning condition relating to these drawings in order to provide certainty.

² Council reference 16/01135/DEMOGDO

18. Section W (13) of Part 3 of Schedule 2 of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. Conditions relating to bat and barn owl mitigation strategies are necessary in the interests of the biodiversity of the site. Protection to nesting birds is afforded by other legislation and a condition addressing that is therefore not necessary.
19. I have imposed a condition in relation to a refuse storage strategy and refuse storage facilities, in the interests of preserving the character of the local area and highway safety.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, the appeal should be allowed, subject to the conditions listed.

Helen Cassini

INSPECTOR