

Appeal Decision

Site visit made on 23 January 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 17 February 2017

Appeal Ref: APP/Z2830/W/16/3159844

Land off Bugbrooke Road, Cornhill, Towcester, Northants., NN12 8LQ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant approval required under a development order.
 - The appeal is made by Mr and Mrs N Stanford against the decision of South Northants District Council.
 - The application Ref. S/2016/0245/PA, dated 25 January 2016, was refused by notice dated 29 March 2016.
 - The development proposed is the change of use of an agricultural building to a dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal accords with the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (now referred to as the GPDO) as permitted development in respect of Schedule 2, Class 3, Class Q, which in general terms permits the change of use of an agricultural building to a dwellinghouse.

Reasons

Background

3. The site is located in open countryside and comprises an agricultural building set back from the road together with a hardstanding for vehicles and surrounding fields. The building is of a simple utilitarian design of a steel frame construction with metal cladding on the walls and roof and with a partly open front. The building has an earth floor. At the time of my visit it was in use for the storage of small amounts of animal feed, hay, logs and equipment. It is proposed to convert the building to use as a dwelling and the submitted plan shows a three bedroom unit with a kitchen, sitting room and utility area.
 4. The Council advises that Prior Approval was sought but not required for the erection of a barn in 2008/2009 as this was considered to be reasonably necessary for agricultural purposes at the appellants' 44ha holding. However, the appellants' agent says that the current building erected in 2009 did not accord with these plans but was erected in a different position. He says that it is therefore unauthorised but points out that the building was erected more than 4 years ago.
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Accord with Class Q

5. The Council's reasons for disputing accordance with Class Q relate to two factors - the extent of land proposed to be curtilage for the dwelling; and the nature and extent of the building operations needed to convert the building. I will consider these in turn. Also relevant is in the national Planning Practice Guidance (PPG).

Extent of curtilage

6. The GPDO sets out a definition of 'curtilage' in paragraph X of Part 3 which in summary is the lesser area of either: the piece of land immediately beside or around the building and closely associated with it; or the land beside or around the agricultural building and being no larger than the area of land occupied by the building.
7. The submitted site plan shows a curtilage around the building and includes a hardstanding of the size of a parking space. The appellants' agent says that the extent of this curtilage is 100 sqm outside of the building which itself has a floor area of 107 sqm. This is said to satisfy the definition. The Council says that the useable curtilage is a larger area of land up to the existing field hedge and should also include the part of the hardstanding at the front of the site which is used to obtain access from the highway.
8. I considered these points at the site visit. It appeared to me that the area of land at the front of the site was used for access to the fields and had an agricultural character about it. Even though there would be access over it to the dwelling, I am satisfied that it need not have a close connection with the residential use and that it should not form part of the calculation of the curtilage area. Although the position of the curtilage around the building shown on the submitted plan does not follow existing natural boundaries, the extent of the land shown could be specified by condition and the enclosure of this boundary, such as with a post and rail fence, could also be specified by condition. The implementation of such conditions would mean that the extent of curtilage shown on the plans would meet the terms of the definition in paragraph X of Part 3.
9. I therefore find that this factor about the extent of the curtilage is capable of being controlled by conditions so that the requirements of the GPDO would be met.

Nature of the building operations

10. Class Q.(b) allows building operation that are reasonably necessary to convert the building to a dwellinghouse and Part Q.1 deals with 'development not permitted' and which are stated in Q.1 (i) to be building operation other than the installation or replacement of "windows, doors roofs, or exterior walls, orwater, drainage, electricity, gas or other services... to the extent reasonably necessary for the building to function as a dwellinghouse...".
11. The PPG sets out the context of such conversions in paragraph 105 and states "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"

12. In assessing this aspect I have taken into account the expert statements made by the engineers - Mr R Pierson MCABE, and Mr N Munro MICE, on behalf of the appellant and in support of the scheme.
13. Mr Munro describes the building as a steel portal frame with vertical cladding and roofing of plastic coated profile sheeting. I saw at the site visit, that the frame is made from 'I' profile vertical steel beams and the corrugated sheeting is single ply fixed to horizontal battens. This arrangement of columns and sheeting is shown on the floor plan of the existing building drawing 15.20.01.
14. However, although both Mr Pierson and Mr Munro are satisfied with the principles of the structural scheme of how the frame will be retained, subject to repair and refurbishment, the plan of the proposed residential conversion does not show how this frame would be accommodated in the new fabric of the building. Drawing No. 15.20.21 appears to show new solid walls around the inside of the building with cladding applied to the outside.
15. In any event Mr Munro recognises in the second objective of his letter of 15 June 2016, that a "separate system of support for the additional building operations [is] necessary to make the building suitable for residential occupation" and in order to comply with the Building Regulations. He goes on to state that "the additional building works necessary to convert the existing building into a residential unit will be provided by an internal timber-framed shell, which will be supported independently by an adequate concrete floor slab through which the various loads will be spread and isolated from the existing structure and its supports".
16. Notwithstanding my concerns about the details of the scheme shown on the actual submitted plan, it appears to me that the scheme envisaged is based on the steel frame only bearing the load of the sheeting as existing, but that the other internal walls and operations are wholly dependent on the introduction of a completely new independent timber frame within the building and that this has to be supported by a new concrete floor. It therefore appears to me, as a matter of fact and degree, that the scale of new building structural works greatly exceed that envisaged in the PPG and are tantamount to the erection of a complete and independent new residential structure inside the building.
17. The appellants' agent refers to Section 55(2) of the Act, which sets out the operations that do not involve development and this includes works that affect only the interior of the building. However, in this case the internal works are being put forward to facilitate a residential use and it is reasonable and necessary to take account of their scale and nature in considering whether the provisions of the GPDO apply.
18. Overall, I agree with the Council's submission and I find that the works exceed what is reasonably required for the existing building to function as a dwellinghouse. On this basis, the proposal does not accord with the provisions of Class Q of the GPDO and is not permitted development.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR