
Appeal Decision

Site visit made on 17 January 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 27 February 2017

Appeal Ref: APP/V2723/W/16/3160083

Barn west of Plantation House, East Cowton, North Yorkshire, DL7 0JY

- 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(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Adam Vaux against the decision of Richmondshire District Council.
 - The application Ref: 15/00958/APDN, dated 1 December 2015, was refused by notice dated 18 May 2016.
 - The development proposed is a change of use from an agricultural building to a dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The drawings that have been submitted with the appeal show the walls of the proposed dwelling as timber boarding, however, both the supporting statement submitted with the application and the appellant's grounds of appeal refer to brick walls being provided. Paragraph W(2) of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (hereafter referred to as the Order) requires that a prior approval application is accompanied by a written description of the proposal. Within this context, the written description of the proposal takes precedence over the drawings and I have therefore determined the appeal on this basis.

Main Issues

3. The main issue in this appeal is whether or not the proposed development is permitted development under the provisions of Schedule 2, Part 3, Class Q(a) and Q(b) of the Order, with particular regard to the extent of construction of new structural elements.

Reasons

4. Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwelling house) of the Schedule to the Use Classes Order¹ (Class Q(a)); and building operations reasonably necessary to convert the

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

- building (Class Q(b)). This is subject to a number of situations where such development is not permitted, listed under paragraph Q.1. In particular Q1(i) states that development is not permitted if development under Class Q(b) would consist of building operations, other than the installation of windows, doors, roofs or exterior walls to the extent that is reasonably necessary for the building to function as a dwelling house.
5. The appeal building consists of a concrete portal frame, and is open on three sides with corrugated metal sheeting forming a wall on part of the south elevation. The building has a pitched roof that is formed of what appear to be corrugated asbestos cement sheets and it has a floor of compacted earth. The building has no internal subdivisions and is presently used for the storage of bales of hay or straw.
 6. The Planning Practice Guidance (the Guidance) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. The guidance goes on to say 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 right.
 7. The proposal involves the removal of the existing roof covering and the single metal sheeting wall, leaving only the concrete frame remaining of the original building. New brick walls would be provided within the frame and the roof would be re-covered. Within this shell, new dividing walls and a first floor would be formed. The appellant's position is that all of these works fall within the scope of Class Q(b) and Paragraph Q.1(i) and that no structural works are required to allow the conversion to proceed.
 8. The Council suggest that the existing structural frame may not be sufficiently robust to support the works necessary to allow the conversion of the building and that a floor slab and foundations for the brick walls would be required. No evidence has been submitted with the appeal in respect of the structural integrity of the concrete portal frame or its load bearing capacity. I saw when I visited the site that, whilst much of the frame appeared to be in good condition there was evidence of deterioration in some of the vertical members. In the absence of any substantive evidence in respect of the structural integrity of the concrete frame, I am unable to conclude that the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use.
 9. More fundamentally, however, in order to be capable of functioning as a dwelling, the building would require the installation of a ground bearing slab, or foundations to support a suspended floor and the new brickwork walls. There is no evidence before me that the building has a floor slab and I saw no indication that the building has one when I visited the site. Works of this type of are not permitted by Paragraph Q1(i).
 10. The building would not be capable of functioning as a dwelling without significant works, some of which are not within the scope of Class Q, and with the exception of the concrete frame, little would remain of the original structure. Whilst Class Q, does potentially allow for substantial works, what would be required in this case goes well beyond what could reasonably be described as conversion and would be so extensive as to comprise rebuilding.

11. I therefore conclude that the works necessary to create a dwelling from the appeal building would not fall within the scope of that permissible under Part Q. Accordingly they would not be permitted development under Class Q(b).

Other matters

12. I have had regard to the appellant's points regarding the proposed materials and the extent of the curtilage proposed, however, these do not alter my findings in respect of the main issue.
13. The Council have suggested that the appeal site is not part of an established agricultural unit on the basis of the location of the farm house and main buildings associated with Plantation Farm and the lines on the submitted site plan indicating the appeal site and other land within the appellant's ownership. The building was being used for an agricultural purpose when I visited the site and land ownership is not definitive of whether or not land is part of an agricultural holding or operation. Consequently, I do not find this line of argument to be compelling and have given little weight to it.

Conclusion

14. I have found that the proposed change of use is not permitted development under Class Q of the Order. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR