
Appeal Decision

Site visit made on 28 February 2017

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 17th March 2017

Appeal Ref: APP/P3040/W/16/3165076

Bridge House Farm, Cropwell Road, Langar, Nottinghamshire, NG13 9HD

- 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 1, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr and Mrs D Theakstone against the decision of Rushcliffe Borough Council.
 - The application Ref 16/01444/PAQ, dated 26 May 2016, was refused by notice dated 22 July 2016.
 - The development proposed is the change of use of an existing steel portal-framed agricultural building to Class C3 (dwellinghouse) including creation of domestic curtilage and vehicular parking area.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 1, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the change of use of an existing steel portal-framed agricultural building to Class C3 (dwellinghouse) including creation of domestic curtilage and vehicular parking area at Bridge House Farm, Cropwell Road, Langar, Nottinghamshire, NG13 9HD in accordance with the terms of the application Ref 16/01444/PAQ, dated 26 May 2016, and the plans submitted with it, subject to the conditions in Annex A.

Background

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) grants planning permission for certain forms of development, including the change of use of an agricultural building to a dwelling house, provided that certain conditions, limitations and restrictions are complied with. Class Q of the GPDO allows building operations reasonably necessary to convert the building to a dwelling house (b). Paragraph Q.1 (i)(i) advises that such works can include the installation or replacement of (aa) windows, doors, roofs and exterior walls to the extent reasonably necessary for the building to function as a dwelling house.

Main Issue

3. The main issue in this case is whether the proposal would comply with the permitted development criteria set out at Class Q.1 (i) of the GPDO.
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Reasons

4. The appeal building is a steel framed agricultural building which is open on its south side but enclosed on its other three sides by blockwork walls with timber boarding above. It has a concrete floor and a corrugated sheet roof.
5. Planning Practice Guidance (the Guidance) advises at paragraph 105 that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. It also clarifies 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.
6. A Structural Inspection Report was submitted with the appeal which finds that the steel portal frame will be retained and is sufficient to support the conversion works. The Council does not dispute this matter and I see no reason to question the results of the report. I am therefore content that the existing building is strong enough to take the loading which would come with the external works proposed.
7. Although Class Q.1 (i) of the GPDO allows the installation or replacement of windows, doors, roofs or exterior walls, no guidance is provided on what 'reasonably necessary' may mean. However, development is only permitted under Class Q to convert the building and as I see it, this requires the building to be sufficiently substantial to be capable of accommodating the works proposed without being re-built.
8. The Council considers the appeal building to have a lightweight open fronted design with three open slatted walls which allow some light and visibility through them. Even so, since it is effectively enclosed on three sides, and despite the walls being of a single skin, I am not convinced that the building is predominantly open or minimal in nature. Moreover, the existing steel frame, concrete foundations, concrete floor, corrugated roof, and the three existing blockwork and timber walls would all be retained as part of the appeal scheme. It has not been put to me that any demolition is proposed. The Structural Inspection Report confirms that the proposal would require the erection of insulated walls to the external walls of the existing which would consist of structural insulated panels built behind (that is, internal to the existing steel columns). The external faces of the barn walls would also be re-clad in cedar boarding for aesthetic purposes, and new windows and doors would be inserted.
9. As such, it seems to me that the works would include the construction of only one completely new exterior wall on the building's south elevation. The other three external walls would not be new. Rather, they would comprise the existing blockwork and timber slats with the addition of an internal insulated skin and external cladding. This being so, and given the other fundamental elements of the building that would be retained as part of the proposal, I am not convinced that the proposed works would exceed what could reasonably be considered as a conversion, or would be so extensive so as to constitute the construction (or re-building) of a new building. Nor am I persuaded that the nature of the works proposed indicate that the building is incapable of functioning as a dwelling (as assumed by paragraph 105 of the Guidance).

10. I have had regard to the appeal decision referred to by the Council at Kingston Brook Farm¹ where the Inspector found that the existing building was not capable of functioning as a dwellinghouse and the level of works needed to facilitate its use as such would go beyond that of a conversion and would be so extensive as to comprise re-building. Whilst I have been provided with no further details, I also understand that that decision was upheld in the High Court. However, in contrast to the proposal before me, the building in that case was completely open on two sides as well as along a good deal of its third side and the Inspector found that it included the construction of all four exterior walls. As such, I do not regard it to be directly comparable to the appeal scheme. I confirm in any event that I have determined the appeal proposal on its own individual planning merits.
11. The proposal also includes the insertion of three sets of patio doors, three full height windows, glazed side panels and top lights surrounding the door to the entrance hall, along with 10 further windows. The Council regards these to be extensive openings that would mean that the building would retain little of its agricultural character and considers that they exceed what would be reasonably necessary for the building to function as a dwelling house.
12. That said, the appellants explain that the proposed openings are intended to maximise daylight and are located to provide daylight into individual rooms as well as to reflect the typical openings on commercial/agricultural buildings. In practical terms, whilst a good number of openings are proposed, I do not regard these to be particularly excessive having regard to the layout of the proposed house, the rooms that are to be provided and the overall size of the building. Furthermore, although I accept that the proposal would alter the appearance of the building, in my view the proposed arrangement of the openings would fulfil a practical function and lend itself well to the existing form of the building.
13. Thus, overall, I am not persuaded that the proposal would introduce unduly excessive areas of glazing or appear at odds with its rural setting. As such, I am satisfied that the installation of the windows as proposed would be reasonably necessary for the building to function as a dwelling house. Whilst the Council also raises concerns as to the ventilation panels within the roof, I am mindful that these are already in place and are to be retained.
14. I note the Council's view that the level of glazing would not be considered acceptable if the proposal concerned a full planning application. Be that as it may, paragraph 28 of the Guidance advises that the statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate as prior approval is a light touch process which applies where the principle of the development has already been established. It also advises that it is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.
15. Both parties refer to other examples of prior approval applications for similar schemes to support their cases to which I have had regard. I appreciate in particular that the Council has resisted a number of such proposals in the borough. However, I am not aware of the full circumstances that led to these decisions, so cannot be sure that they are the same as those before me.

¹ APP/P3040/W/16/3142052

16. Bringing matters together, for the reasons given, as a whole I consider that the proposed building operations would fall within the definition set out in Class Q.1 (i) and that they would not go beyond what would be reasonably necessary for the appeal building to function as a dwellinghouse.
17. I therefore conclude on this issue that the proposal would comply with the permitted development criteria set out at Class Q.1 (i) of the GPDO.

Other matters

18. The Council's decision notice refers to a second reason for refusal regarding flood risk. As part of the appeal the appellants have submitted a Flood Risk Assessment (FRA) which indicates that the site lies outside Flood Zones 2 or 3. On this basis the Council confirms that the proposal would not be adversely affected by, or lead to, any flooding issues. Based on the information before me, I see no reason to come to a different view. However, the FRA suggests a number of mitigation measures relating to site levels, the incorporation of flood resilience measures, and appropriate site drainage.
19. Paragraph W of the GPDO sets out the procedure for applications for prior approval under Part 3 and advises that the local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. As such, I am content that the mitigation measures in the FRA could be secured via a planning condition.
20. The supporting information submitted with the planning application and the proposed layout plan indicates that the immediately adjoining agricultural building to the south of the appeal building would be removed. This is within the red line boundary of the site and given its close proximity to the appeal building its removal would be necessary as part of the appeal scheme. The Guidance indicates that conditions worded in a negative form (Grampian conditions) can be used to prohibit development until a specified action has been taken. I am satisfied that such a condition could be imposed to ensure the adjacent agricultural building is removed prior to the use taking place.

Conclusion and Conditions

21. For the reasons set out above, I conclude that the appeal should be allowed.
22. In granting approval, the GPDO requires at paragraph W (12) (a) that the development shall be carried out in accordance with the details approved by the local planning authority. Paragraph Q.2 (3) also stipulates that development shall be completed within a period of three years. As such, conditions are not required in these regards.
23. Nevertheless, the Council has suggested a number of other conditions which I have considered. A condition to secure the removal of the adjacent agricultural building is necessary in order to provide adequate living conditions for the future occupiers of the appeal building. Conditions requiring the submission of details of the boundary treatments, and to ensure the use of the materials indicated, are necessary in the interest of the character and appearance of the area.

24. A condition to secure the flood mitigation measures in the FRA is required in order to minimise risks from flooding. Finally, a condition requiring development to take place in accordance with the submitted Structural Inspection Report, and in accordance with a schedule (or phasing) of work that has been previously agreed by the Council (as suggested by the appellants), is necessary to ensure that the works are limited to the conversion of the existing building.

Elaine Worthington

INSPECTOR

Annex A

- 1) The use shall not commence until the adjacent agricultural building has been removed as shown on the Layout Plans drawing number 16/205-01.
- 2) The use shall not commence until details of the boundary treatments have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved.
- 3) The materials to be used in the construction of the external surfaces of the building shall be as shown on the Proposed Floorplan and Elevations drawing number 16/205-04.
- 4) The works shall be carried out in accordance with the mitigation measures at Section 8 of the Flood Risk Assessment by NeoFlood Ltd dated November 2016.
- 5) The works shall be carried out in accordance with the Structural Inspection Report by Opus Structural Surveys dated 29 September 2016 and a schedule of works that has been submitted to and approved in writing by the local planning authority.