

Appeal Decision

Site visit made on 14 February 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 21 March 2017

Appeal Ref: APP/G1630/W/16/3163579

Hayden Farm Barns, Hayden Farm, Hayden Lane, Boddington, Cheltenham, Gloucestershire GL51 0SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs T M Hadley and Mrs E James against the decision of Tewkesbury Borough Council.
 - The application Ref 16/00344/PDAD, dated 21 March 2016, was refused by notice dated 18 May 2016.
 - The development proposed is the conversion of two agricultural barns to 2. no residential dwellings, including the works necessary to allow them to function as dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has made a number of requests for the matter to be considered by way of informal hearing. While I note their reasons for doing so and the various arguments as to why such a hearing is necessary, from the information submitted, I am satisfied that the matter can adequately be determined by way of the written representations procedure.

Applications for costs

3. An application for costs was made by Mrs T M Hadley & Mrs E James against Tewkesbury Borough Council ("the Council"). A second application was made by the Council against Mrs T M Hadley & Mrs E James. These applications are the subject of separate Decisions.

Main Issue

4. The main issue is whether the proposal is permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order") with particular regard to the building operations reasonably necessary to convert the building to residential use.

Reasons

5. The appeal site consists of two rectangular shaped barns which were previously used as agricultural buildings. Barn A is a modern portal frame building consisting of steel frames, a metal roof together with a concrete floor plate and
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foundations. Some of its elevations contain modest amounts of brickwork while others contain timber boarding and metal sheeting. Its south eastern elevation is completely open. Barn B consists of a Dutch barn with lean-to which has a metal corrugated roof, a mostly earthen floor and with the exception of the north east elevation, is generally open on all sides.

6. Class Q of the Order permits the change of use of an agricultural building and any land within its curtilage to a residential dwelling, together with building operations reasonably necessary to convert it. Where a proposal falls within the permitted development right of Class Q, development is permitted unless otherwise restricted by one of the exceptions, limitations or conditions set out in the Order. Paragraph Q.1(i) places such a limitation on the building operations permitted under Class Q restricting them to the installation or replacement of windows, doors, floors, roofs or exterior walls¹ which are reasonably necessary for the building to function as a dwelling house. It also allows for the partial demolition to the extent reasonably necessary to carry out such works.
7. However, in order for the permitted development right to apply, the development proposed must fall within the concept of a 'conversion' as opposed to a 'rebuild'. If it does not it fails at the first hurdle and does not constitute permitted development. There is, however, little guidance as to where the dividing line between a conversion and rebuild (or new build) lies. It is a question of judgement for the decision maker in each case having regard to both the type and extent of the works proposed.
8. The existing structures have a number of open elevations that would require varying levels of infill to construct exterior walls suitable for a residential dwelling. While the appellants' evidence details how the existing steel frame, roof and floor slab would be retained and how structural infill panels (SIPs) would be used to construct walls within the existing frame, a substantial amount of additional block work or timber cladding would be added to all elevations. While I accept that substantial works could fall under the scope of building operations within Class Q², in the proposal before me, the structures would only be capable of functioning as a dwelling following the substantial reconstruction of most exterior walls. This would, in my view go beyond what could reasonably be described as conversion and would be so extensive as to comprise rebuilding.
9. Consequently, I conclude that the works necessary to effect the change of use from the existing barns to residential dwellings would not fall within the scope of that permissible under Class Q(b). Accordingly, the proposal would not be permitted development.

Other matters

10. The Council has also objected to the type of works proposed referring in its decision notice and written evidence to Paragraph Q.1(i). Development which falls outside the concept of a conversion fails at the first hurdle under the overarching provisions of Class Q and there is no need to consider the restrictions set out in Paragraph Q.1.

¹ As well as water, drainage, electricity, gas or other services

² Notwithstanding the limitations imposed by Paragraph Q.1(i)

11. Nevertheless, I note the appellant's addendum structural report indicates that both the foundations and steel frames would require no major works as part of the proposal. However, structural integrity will differ significantly between buildings and there is little information contained within the addendum which would demonstrate that the structural supports of these particular buildings are of a suitable type and condition for the development proposed. In the absence of any structural calculations which would indicate that the frame or foundations are capable of taking the loading associated with the proposed works, I cannot be certain that they could be retained for use without substantial repair. Accordingly, I do not consider the information submitted is sufficient to demonstrate that the proposal would not require further structural works which would be contrary to Paragraph Q.1(i).
12. I also note the examples of other Prior Approval cases put forward by the appellant. However, although I do not have full details of those schemes or the extent of the works involved, from the limited details submitted the original structures appear to be of a more substantial construction than those in the present case. As such, I cannot be certain that they raise the same issues identified above and accordingly do not consider that they provide a justifiable precedent for the development proposed. In any case, they do not alter my reasoning above.

Conclusion

13. For the reasons set out above, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR