The Planning Inspectorate

Appeal Decision

Site visit made on 21 March 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 11 April 2017

Appeal Ref: APP/P1805/W/16/3165748
Agricultural Building North of Coopers Hill, Coopers Hill, Alvechurch B48 7BX

- 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 (as amended).
- The appeal is made by Mr Adrian Bytom against the decision of Bromsgrove District Council.
- The application Ref 16/0750, dated 25 July 2016, was refused by notice dated 19 September 2016.
- The development proposed is conversion of agricultural building into a dwelling, Town and Country Planning (General Permitted Development) Order 2015 Schedule 2, Part 3, Class Q(b).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Class Q of the GPDO[1] 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 Order[2] (Class Q (a)), and building operations reasonably necessary to convert the building (Class Q (b)). This is subject to a number of circumstances where such development is not permitted, listed under paragraph Q.1. It is also subject to the prior approval requirements under paragraph Q.2(1) where the development proposed is development under Class Q(a) together with development under Class Q(b). Where the development proposed is development under Class Q(a) only the prior approval requirements under paragraph Q.2(2) apply.
3. The Council have confirmed that prior approval was granted under Schedule 2, Part 3, Class Q(a) for the change of use of this agricultural building into a single dwellinghouse on the 20 June 2016. I note that the appellant has stated it is not open to the Council to argue that the development does not in fact qualify as permitted development for any reason. He considers that the granting of the prior approval means that the Council have already confirmed that the proposed development complies with the conditions, limitations or restrictions specified in Part 3 under Schedule 2 of the GDPO.
4. However, the decision notice for the prior approval that was granted in June 2016 is specific to Class Q(a). As the GPDO make it clear that development

[1] The Town and Country Planning (General Permitted Development) (England) Order 2015
[2] The Town and Country Planning (Use Classes) Order 1987 (as amended)

can be proposed under Class Q(a) only it would not be reasonable to consider that as prior approval was granted under that Class that the Council have confirmed that the development meets the conditions, limitations or restrictions that relate specifically to Class Q(b).

Main Issues

5. Taking into account the above, the main issues are:
    - whether the proposal would be permitted development, with regard to whether the building operations are reasonably necessary to convert the building to residential use and;
    - if so, whether or not prior approval is required.

Reasons

6. Paragraph 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 dwelling.
7. The agricultural building in question is a steel framed structure with a shallow pitch roof. It has timber horizontal bracing between the steel uprights and timber purlins within the steel frame to support the cement fibre corrugated roof. The south west elevation contains a large opening. The floor within the building appears to be compacted earth and the steel uprights are located on concrete pads.
8. Class Q(b) relates to building operations reasonably necessary to 'convert' the building. The appellant's submission describes how only the steel frame and roof covering of the existing building would be retained. The roof covering would be insulated and internally finished with plasterboard and then skimmed. The existing corrugated metal sheets to the walls would be replaced with larch boarding and that would also be insulated and internally finished with plasterboard and then skimmed. Windows and doors and a new partially sunk ground floor and a first floor would be inserted within the building.
9. The Planning Practice Guidance (the PPG) refers to some building operations being permitted under Class Q (b), including the installation of windows, doors and exterior walls to the extent reasonably necessary for the building to function as a dwelling house. The PPG also states that *"It is not the intention for 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"*.
10. The Council's Officer Report attached to the decision notice states that a structural survey was submitted with the application but I have not been provided with a copy of this. Whilst the appellant's Appeal Statement and the drawings and sections provide some details of the proposal, I do not have evidence before me, such as a structural survey, to demonstrate that the existing structure would be capable of providing the sole structural element for the proposed dwelling.
11. Furthermore, there is insufficient detail shown within the drawings to show how the existing frame would be used to support the new external walls or whether these walls would comprise structural elements in their own right. The new

external walls, windows and doors are likely to be heavier than the existing cladding and sheeting which the frame currently supports.

12. While it is possible that the internal works would be excluded from the definition of development by the effect of S55(2)(a) of the Town and Country Planning Act 1990, the appellant has not produced any evidence to demonstrate that, for example, additional works such as foundations would not be required in order to construct the proposed external walls or to support the existing frame. The excavation and installation of foundations are not included in the list of permitted operational development, and if this work is reasonably necessary to convert the barn into a dwelling, it would not fall within the permitted development right.
13. Even if the existing frame would be capable of providing the sole structural element for the proposed dwelling I need to have regard to the extent of works necessary for the frame and cement fibre roof to function as a dwelling. I acknowledge that substantial works could fall under the scope of Class Q (b), they nonetheless presuppose that the works comprise "conversion". In this case, the building before me would not be capable of functioning as a dwelling without the building work outlined above which includes the construction of all four exterior walls.
14. The development would in all practical terms be starting afresh, with only a modest amount of help from the original agricultural building. This goes well beyond what could reasonably be described as conversion, and notwithstanding the reuse of the existing frame and the retention of the fibre roof, the works described would be so extensive as to comprise rebuilding.
15. A number of appeal decisions[3] have been drawn to my attention by both parties. I have taken the decisions into account and in most cases there are some parallels with the proposal before me. Nevertheless, there are differences in terms of the individual circumstances of the agricultural buildings and the conversion works required. This appeal is necessarily determined on its own merits relative to the legal tests in the GPDO.
16. I conclude that, based on the evidence before me, the proposal would not satisfy the requirements of Schedule 2, Part 3, Class Q(b) of the GPDO, having regard to the associated guidance within the PPG, and therefore is not development permitted by it.

Prior Approval Matters

17. Given my conclusion that the proposal would not be development permitted under Schedule 2, Part 3, Class Q(b) of the GPDO, there is no need for me to consider the prior approval matters as it would not alter the outcome of the appeal.

Conclusion

18. For the reasons given above I conclude that the proposal is not permitted development and that the appeal should be dismissed.

D. Boffin

INSPECTOR

[3] APP/D0840/W/16/3147174, APP/D0840/W/15/3130961, APP/G1630/W/15/3140166, APP/L3245/W/16/3147626, APP/X1545/W/16/3151900 and APP/H1840/W/16/3152992