
Appeal Decision

Site visit made on 25 April 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 8th May 2017.

Appeal Ref: APP/R1010/W/17/3169177

Cedar Farm, Chesterfield Road, Tibshelf, Derbyshire DE55 5NP

- 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 (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Ian Rowe against the decision of Bolsover District Council.
 - The application Ref 16/00428/DETA2R, dated 26 August 2016, was refused by notice dated 2 December 2016.
 - The development proposed is the conversion of an existing agricultural barn and store to one residential unit.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the appeal form, as this is more succinct than the description given in the application form.
 3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) enables certain types of development to take place without the need for specific planning permission, provided certain criteria are met. Provisions exist under Schedule 2, Part 3, Class Q.(a) for the change of use of an agricultural building to a dwellinghouse, and (b) the associated building operations, subject to limitations and conditions.
 4. The application was originally submitted for determination under Class Q.(a) only. During the course of the application it was agreed that it would also be considered under Class Q.(b). It is clear from the decision notice that the Council considered the application under Classes Q.(a) and (b), and I have determined the appeal on this basis.
 5. Paragraph Q.1.(i) of the GPDO states that, development is not permitted under Class Q.(b) where it would consist of building operations other than: (i) the installation or replacement of – (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1.(i)(i).
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6. In refusing the application, the Council states that the development does not constitute permitted development as it would go beyond the scope of the works permitted and would amount to a rebuild rather than a conversion. I need to address this issue first in my decision.
7. Where the development proposed is development under Class Q.(a) together with Class Q.(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required for certain matters.
8. The Council's decision notice states that prior approval is required but does not explicitly state that prior approval is refused. However, taking account of the notice as a whole it is reasonable to read as a notice of the refusal of prior approval on the basis that the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses).

Main Issues

9. The main issues are:

- Whether the proposal satisfies the requirements of the GPDO with regard to being permitted development under Schedule 2, Part 3, Class Q.
- If so, whether the location and siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling with Class C3 (dwellinghouses).

Reasons

Permitted Development

10. The building is a steel portal framed structure, which appears to be roofed with fibre cement sheeting. The majority of the walls are constructed from concrete blockwork, which are partially clad in steel sheeting. The building has a full height blockwork wall on the second to last frame to close off the main area from the vehicle parking bay. The vehicle parking bay is open fronted, with low blockwork walls and steel sheeting above.
11. A structural survey has been submitted by the appellant.¹ This states that the foundations comprise mass concrete pads at the structural steel column positions, with trench fill footings between the pads. The survey states that the foundations are adequate for the proposed conversion. In addition to the foundations, the other structural elements of the building include the blockwork, the steel frame and the roof purlins and rafters. Overall, the survey concludes that the building is in good structural condition and there is no evidence of structural movement.
12. In order to provide the necessary roof insulation it is proposed to replace the roof with insulated metal cladding, which would be supported by the existing roof structure. It is also proposed to replace parts of the blockwork with brickwork, which would generate a small increase in load and may compromise the stability of the structure. The survey advises this could be addressed by the addition of full height timber wall panels, fixed to the steel columns, which

¹ Terry Lee Associates, TLA/2440 Rev A, dated 21 November 2016

would also provide wall insulation. The building has no floor slab and a concrete floor would be required. This would support the loads from the internal partitions and new ceilings.

13. The proposed works involve the replacement of the roof and the partial replacement or over-cladding of the exterior walls. The inner leaf to the external walls would be constructed in insulated timber framing and other internal partition walls would be erected, which would be supported on a new concrete floor. Additional windows and doors would be inserted. Although the works are relatively extensive, the main structural elements of the building would remain. Whilst some of the blockwork may be replaced by brickwork, this is not necessary to enable the conversion to take place, but has been proposed for aesthetic reasons.
14. The Planning Practice Guidance (PPG) advises that it is not the intention of the permitted development right to include the construction of new structural elements for the building. The information provided by the appellant demonstrates that the building is structurally strong enough to take the additional loading from the external works, and no new structural elements would be required. The works would be confined to the installation or replacement of windows, doors, the roof and parts of the exterior walls, which are permitted under Q.1.(i)(i).
15. The Council refers to a High Court judgement,² which I have considered. The building in that case differed from the appeal building as it is described as being largely open sided and, therefore, the construction of all four exterior walls would be required. On the basis of the evidence before me, I am satisfied that the appeal building is capable of functioning as a dwelling. It does not require construction of walls as the proposed works are either over-cladding or the partial replacement of the existing blockwork with brick.
16. To conclude on this matter, I find that the requirements for prior approval under paragraph Q.2.(1) of the GPDO have been met and, therefore, the proposal is permitted development.

Location and Siting

17. The Council considers the siting of the proposed dwelling would be undesirable, and the circumstances could not be mitigated. The PPG offers guidance on what is meant by 'impractical' or 'undesirable' for the change to residential use. The PPG advises that a location may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.
18. The appeal building is part of a complex of agricultural buildings set around a farmyard. The other buildings are an open fronted cowshed and an equipment store. There is also an area of open storage which, at the time of my site visit, contained a range of agricultural machinery/equipment, hay bales and some hardcore.
19. The dwelling would be sited within, and would share an access with, the working farmyard. It would be in relatively close proximity to the cowshed. Moreover, the area of open storage would be in front of the dwelling's main

² Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016 EWHC 2853] (Admin)

elevation and its area of amenity space. The farm machinery is not limited to one or two tractors but included a muck spreader, trailers and parts of mechanical diggers. It appears that this is the main equipment storage area for the farm. I appreciate that the other building is a seasonal equipment store, and the equipment may be stored here at certain times of the year. Nevertheless, in order to access the equipment store it would be necessary to pass directly in front of the proposed dwelling. As this is a working farm, it is highly likely that the equipment would be used frequently and at unsociable hours. This would lead to noise and disturbance to the future occupiers of the dwelling. Also, there is potential for odour nuisance due to the proximity to the cowshed.

20. I understand that the dwelling would be for the use of the appellant and his family. However, this cannot be controlled and circumstances may change. The appellant considers that it would be a 'buyer beware' situation if the property was sold to someone other than a farmworker. However, future occupiers or purchasers may not fully appreciate the implications of living close to a working farmyard, which may lead to conflict at a later date. Although existing neighbours may not have any issues with regard to the farm operations, the houses are not as close to the operations as the appeal building would be and do not share an access.
21. The appellant advises that landscaping could be provided to enhance and screen the amenity space. However, due to the size of the space, there is limited scope for effective screening.
22. I have considered the 'similar approved applications' submitted by the appellant. The full balance of considerations that informed those decisions is not before and I am unable to assess how similar the issue were in those cases to the appeal before me.
23. I conclude on this issue that the siting of the building within the yard of a working farm, and in close proximity to the agricultural machinery store and cowshed, would make it undesirable for the building to change from agricultural use to a dwellinghouse.

Conclusion

24. For the reasons given above, the appeal is dismissed.

Debbie Moore

Inspector