
Appeal Decision

Site visit made on 3 May 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 19th May 2017

Appeal Ref: APP/C3430/W/17/3168318

Agricultural building at Meadow Farm, Meadow Farm, Post Office Road, Seisdon WV5 7HA

- 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 & Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Andrew Goldie against the decision of South Staffordshire Council.
 - The application Ref 16/00952/AGRRES, dated 21 October 2016, was refused by notice dated 5 December 2016.
 - The development proposed is for the conversion of the existing agricultural building into two dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters and Main Issues

2. 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 3 (dwellinghouses) of the Schedule to the Use Classes Order and any building operations reasonably necessary to convert the building. Development is not permitted under Class Q subject to a number of conditions, limitations or restrictions which are set out under paragraph Q1(a) to (m).
3. The Council's case is that Class Q does not apply on the basis that the building operations that would be required in this case are beyond the limitations set in the permitted development criteria under Class Q.1 sub-paragraph (i) which specifies the list of works that are permitted to the extent reasonably necessary for the building to function as a dwellinghouse.
4. If the building works fall within sub-paragraph (i) then two further main issues arise; firstly, whether the location and siting makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3; and secondly, whether the proposal has failed to demonstrate that the development would not give rise to unacceptable flood risk.

Reasons

5. The appeal site comprises a substantial steel framed building clad with steel sheets above a plinth constructed of several layers of railway sleepers laid horizontally. Although I was only able to view the building from the village
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street, the appellant's photographs indicate that the floor of the building is constructed from concrete. Full height sliding doors occupy the middle section of the gable facing the residential property, The Barn.

6. Class Q of the 2015 Order defines development consisting of (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule, as permitted development.
7. Of relevance in this case is Q.1 of the Order, which explains that development is not permitted by Class Q if (i) the development under Class Q(b) 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).
8. It is clear that what is proposed includes the creation of a mezzanine internal floor that would span the whole width of the building and supporting substantial living space, effectively at first floor. Whilst I accept the appellant's arguments that section 55(2)(a) of the Town & Country Planning Act 1990, would indicate that internal alterations would not normally constitute development as found in a separate appeal¹, it would without doubt, be a building operation. Moreover, in the context of the appeal, it would not be a building operation falling under the ambit of (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. It would rather constitute a significant new structure offering its own structural support to the living spaces within. The Planning Practice Guidance is clear that it is not the intention of the permitted development right to include the construction of new structural elements, whether internal or external.
9. Furthermore I do not have any substantive evidence before me, such as a structural survey to conclude that the existing foundations are capable of taking the load of a substantial mezzanine structure without additional building operations that are not included in Class Q.1(i)(i). This adds weight to my view that, based on the information that is before me, building operations are likely to be required that are not included in Q.1(i)(i) and which would be essential for a change of use to residential to be implemented.
10. Secondly, a flood risk assessment has been submitted, which indicates that the site is at risk from fluvial flooding with an absence of flood defence protection. The assessment recommends a series of further steps that would be necessary including the submission of additional topographic surveys, details of sustainable drainage scheme and a flood evacuation plan to enable safe access and egress during times of spate. In addition, the Environment Agency would require details of flood compensatory measures. It thus maintains a formal objection to the development.

¹ APP/G1630/W/15/3140166

11. These contribute to a level of concern about the development had I been persuaded on the first main issue. However, given my findings on the main issue, I need not give further detailed consideration to this area of concern at this time. Neither do I need to explore further the Council's concerns relating to the effect of the proposal on the living conditions of occupiers of the neighbouring dwelling for the same reason.
12. For the reasons given above, the development proposed is not one that is permitted by Class Q of the 2015 Order. I therefore conclude that the appeal should be dismissed.

Gareth W Thomas

INSPECTOR