

Appeal Decision

Site visit made on 17 May 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 02 June 2017

Appeal Ref: APP/B1930/W/17/3168563

Land rear of 15-17 Castle Rise, Weathampstead, Herts AL4 8JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior 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 Jarvis Homes Ltd against the decision of St Albans City & District Council.
 - The application Ref 5/16/3011, dated 5 October 2016, was refused by notice dated 29 November 2016.
 - The development proposed is the change of use of agricultural barn to two dwellings and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development from the appeal form as this best describes the development to which the appeal relates. There is a slight variation on this shown on the Council's decision notice but the differences are not fundamental. An incorrect description is shown on the planning application form. I have invited views from both main parties on my use of this description and there have been no fundamental objections. I have therefore proceeded on this basis.

Main Issues

3. There are two main issues. These are:
 - Whether the proposed development would consist of building operations other than the installation of windows, doors, roofs or exterior walls or water, drainage, electricity, gas or other services, to the extent reasonable necessary for the building to function as a dwellinghouse; and
 - Whether the site was used solely for an agricultural use as part of an established agricultural unit on 20th March 2013, or, in the case of a building which was in use before that date but was not in use on that date, when it was last in use.
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Reasons

Building Operations

4. It would be appropriate to define the building's appearance, in its current state, as dilapidated. There is a core metal frame which supports part of the roof, bracing it against the concrete floor. What remains of the exterior walls are a mix of sections of concrete blockwork, profile sheeting and timber panelling. In areas beyond the metal frame, the roof is supported by various timbers. There are also timbers that appear to provide additional roof support at the eaves. The timber and other sheet panelling that makes up the external walls has failed in multiple places.
5. Class Q is not explicit on the extent of building operations that are permitted within its tolerances. Planning Practice Guidance nevertheless sets out that it is not the intention of class Q to include the construction of new structural elements for the building. In essence, a distinction is sought between a conversion in the true sense and an effective rebuild project. In coming to a view on this matter, I have had regard to both the surveyor's report that has been submitted with the appellant's evidence and my own findings on site.
6. There is some ambiguity as to the extent and remit of 'local repairs' that may be needed to some of the purlins. Whilst it seems that the purlins take their support from the metal frame, the metal posts comprise a contextually small area of the building's overall spread. The metal frame appears to be bolted together in a number of sections and supportive timbers tend not to be continuous. I have further concern about what also appears to be significant failings in the timber framework that makes up the areas above the concrete blockwork, supporting sections of the roof at eaves level, on the north elevation specifically. The northwest corner of the roof is supported by what appears to be a very weathered single timber post and support for the northeast corner is completely absent.
7. There is evidence of structural movement in the wall separating the two parts of the building within what the surveyor describes as phase 2. This is in the form of a diagonal crack. There is mention as to what may have caused this but comments do not extend beyond speculation. Further, there is no explicit mention of what may be needed to remedy the problem and to what extent. In addition, and with regard to the same phase of the building, I noticed the stated lateral movement in the blockwork panels on the south elevation which the surveyor puts down to a lack of restraint at the head of the walls between the door openings. There is mention that this is not critical but there is a lack of clear explanation of how such failings would need to be addressed and how extensive any attention would need to be.
8. There are areas of concrete blockwork in the existing wall sections that have a supporting role in the building's structure. However, this is not in all areas of the external walls, the state of the south elevation aside.
9. It appears to be the case that the existing metal frame which is described as the core of the building would be capable of supporting a roof. The evidence suggests the frame is salvageable. However, it is not purely the metal framework that is and would be responsible for all of the structural elements of what would be the two dwellings. It is my view that the structure of the building and what would make it two dwellings would rely on much more than

simply this 'core'. My concerns in this respect are amplified by my findings above in respect of the condition of the building and what I consider to be its other structural elements.

10. There is a lack of clarity on the extent of repairs and additions that would be needed. Much of which concerns structural elements of the building as I have described them. I am thus not persuaded that the proposed building works would not extend to that concerned with the building's structure. In essence, there is too much ambiguity as to whether the building could function as two dwellings in the absence of what appears to be a substantial amount of work. I am therefore not satisfied that the building is structurally strong enough to take the loading which comes with the external works to provide for residential use.

Agricultural Use

11. For the proposed development to benefit from the rights afforded under Class Q the building has to have been in use, as part of an established agricultural unit, on the active date. If this is not the case, but it was in agricultural use before that date, the right applies since it was last in agricultural use (my emphasis).
12. From the current state of the building, the detritus forming its contents and the substantial nature of the overgrowth around it, it seems clear to me that the building has not been used for some time. The extensive and detailed accounts from local residents would appear to concur with this. Whilst it is therefore clear that the building was not in use as required by Class Q, on the active date, was its last use agricultural?
13. The buildings construction is very much of the agrarian type although this alone would not be sufficient. The interior is divided into smaller pens and there is a trough running most of the length of the floor which indicates livestock may have been housed there at some point. It is part of a wider land holding with some other storage buildings adjacent. Whilst the evidence from local residents does confirm the site has not been in use for some considerable time, they do refer to a previous agricultural use as well as the building and the wider area being used as a small holding and market garden. The appellant has also submitted two statutory declarations from other parties in support of their case.
14. The Council have previously refused to issue a Certificate of Lawful Development (LDC) in respect of the use of the building for the storage of building materials¹. They concluded that there was insufficient evidence to support the case that the use had endured for the required period of time. As part of that evidence the owners declared that it had. However, since the Council did not issue the LDC on the strength of its supporting evidence, the assertion that it was used as a builder's yard falls away.
15. Taking all of these factors together, it appears to me that there is sufficient evidence that the last use of the building was agricultural as part of a wider unit, whenever specifically that may have been. The Council and local residents raise concerns on the lack of evidence that the building was in continuous use for a ten year period. However, this provision applies to

¹ St Albans City and District Council Reference 5/2004/2003

buildings that were brought into agricultural use after the active date, not before. Class Q is not explicit on the time period before the active date that a given building has to have been in agricultural use.

Other Matters

16. There are a number of representations before me that express concern over the effect of the proposed development on the Green Belt. However, it is important to clarify that the appeal before me is with regard to a notification for prior approval. In simple terms, the notification seeks confirmation as to whether the proposed development would comply with certain legislative provisions. Legislative provisions which relate to development that would be permitted without the need for express planning permission. The broader planning matters to consider as part of that process do not extend to the Green Belt.

Conclusion

17. Notwithstanding my findings on the last use of the building concerned, for the reasons set out, the works necessary to create two dwellings from the structure onsite would not fall within the scope of that permissible under class Q. Accordingly, they would not be permitted development. The appeal therefore fails.

John Morrison

INSPECTOR