



Appeal Decision

Site visit made on 13 June 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 3rd July 2017

Appeal Ref: APP/M3645/W/17/3170473

Chelsham Heights, Beech Farm Road, Warlingham CR6 9QG

- 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.
 - The appeal is made by Mr M Thompson against the decision of Tandridge District Council.
 - The application Ref TA/2016/1708/NC, dated 12 September 2016, was refused by notice dated 22 November 2016.
 - The development proposed is conversion of barn to 3 No dwellings including the removal of an existing lean-to annexe.
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Decision

1. The appeal is dismissed.

Procedural Matter and Main Issue

2. The application for prior approval was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). Class Q grants deemed planning permission (permitted development [PD] rights) for the change of use of agricultural buildings and any land within their curtilage from a use as an agricultural building to dwellinghouses (Class C3) of the Schedule to the Use Classes Order of 1987 (as amended).
3. The development would involve the formation of three dwellings. However, the submitted application does not clearly define what the curtilage would be for the dwellings, with the application's red line covering an extensive area beyond the building's immediate environs. Paragraph X of Part 3 to the Order provides an interpretation (definitions) and indicates that curtilage means:
 - (a) *'the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or*
 - (b) *an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building,**whichever is the lesser;'*
4. Were the application's red line to be taken as the curtilage for the development then I consider it would not meet definition set out Paragraph X. Accordingly for the avoidance of doubt I have treated the curtilage for the

development as being that limited to the extent of the building proposed for conversion, including the lean-to element to be demolished.

5. The main issue is whether the proposal would be permitted development under Class Q of the Order, having particular regard to whether the building operations would be reasonably necessary to convert the building.

Reasons

6. As part of the development the lean-to structure on the northern western side of the building would be demolished. The building to be converted has been constructed using a reinforced concrete portal frame, blockwork ranging between 1.6 and 2.3 metres in height (lower walls) and corrugated asbestos-cement sheeting (upper walls and roof). The building is supported by concrete foundations and it has a concrete floor.
7. To facilitate the development it is intended that the existing wall cladding would be replaced by insulated cement fibre boarding. Numerous doors and windows would be inserted into the building's walls. The existing roof covering would be replaced by plastic coated steel sheeting.
8. The Council contends that it has not been demonstrated that the retained structure would be capable of bearing the weight of the new wall and roof coverings and that it might therefore be necessary to introduce new structural elements. Were that to be the case then the Class Q PD rights would be unavailable. For the appellant it has been stated that there would be no significant loading on the existing foundations, with the portal frame being retained to support the new external finishes¹. The Council has provided no evidence demonstrating that the retained structure would be unable to support the new external coverings and, based on what I saw on site, I see no reason why the appellant's evidence in this respect should not be accepted. I therefore consider that in that regard the High Court's judgement in the case of Hibbitt² does not support the Council's case.
9. However, the development would involve a significant amount of the building's exterior being replaced and when those works are taken with the removal of the lean-to element of the building, very little of the original exterior would be left to facilitate the development. I recognise that paragraph Q.1(i)(i) of the Order allows for the installation or replacement of windows, doors, exterior walls and roofs. However, when regard is paid to the Hibbitt judgement, I consider that the scale of the re-cladding, re-roofing, and door and window insertion would involve a significant degree of rebuilding that would exceed the level of building operations reasonably necessary to convert this building into three dwellings.
10. I therefore conclude that the development would not be permitted development for the purposes of Class Q(b) of the Order. Given that conclusion there is no need for me to consider the prior approval matters under paragraph Q.1 of the Order.

¹ The report prepared by Peter Cook Building Surveyor

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

Conclusion

11. For the reasons given above the appeal is dismissed.

Grahame Gould

INSPECTOR