
Appeal Decision

Site visit made on 6 June 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: 06 July 2017

Appeal Ref: APP/P0119/W/17/3168435

Barn at Kington Road, Oldbury on Severn, Bristol BS35 1PN

- 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 D & A Allen against the decision of South Gloucestershire Council.
 - The application Ref PT16/4164/PNGR, dated 5 July 2016, was refused by notice dated 1 September 2016.
 - The development proposed is to change part of the existing agricultural building to provide a family dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading is a shortened version of that which appears on the application form, omitting elements which do not describe the development.
3. Class Q of the GPDO¹ 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 Order² (Class Q (a)), and building operations reasonably necessary to convert the building (Class Q (b)).
4. Planning Practice Guidance (PPG) advises that the starting point for Class Q is that the permitted development rights grant planning permission, subject to the prior approval requirements under paragraph Q.2(1). However, it is necessary to determine firstly whether the proposal falls within the permitted development rights. An assessment relative to prior approval requirements under paragraph Q.2(1) is only necessary if it is firstly determined that the proposal would be permitted development under Class Q.
5. It is common ground between the main parties that the current proposal meets the requirements of Schedule 2, Part 3, Class Q, paragraphs Q.1(a)- (h) and (j) - (m) of the GPDO. Based on the evidence before me, together with my observations of the building and its surroundings, I have no reason to take a

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

² The Town and Country Planning (Use Classes) Order 1987 (as amended)

different view in terms of those Class Q requirements. However, the Council refused the application for prior approval because it considered that the building requires building operations in excess of that considered reasonably necessary for the building to function as a dwellinghouse.

Main Issues

6. 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

7. The GPDO states at paragraph Q.1.(i) that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or external walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
8. The PPG³ states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. Furthermore, in order for the permitted development right to apply, the development proposed must fall within the concept of a 'conversion' as opposed to a 'rebuild'. There is, however, little guidance as to where the dividing line between a conversion and rebuild (or new build) lies. It is a question of judgement for the decision maker in each case having regard to both the type and extent of the works proposed.
9. Nonetheless, the PPG indicates that, for the building to function as a dwelling, some building operations which would affect the external appearance of the building and which would otherwise require planning permission would need to be undertaken and should be permitted. It further clarifies that it is not the intention of the permitted development right to include the construction of new structural elements for the building. Consequently, it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide the residential use that the building would be considered to have the permitted development right.
10. The agricultural building in question is a large steel framed structure with a corrugated pitched roof. It has areas of blockwork between the steel uprights and timber cladding above the blockwork. The south elevation contains a large opening. There are concrete panels to part of the south elevation and internally along the proposed west elevation. The floor within the building appears to be concrete and the blockwork and steel uprights appear to be located on top of this floor.
11. The proposal would involve the demolition of an appreciable part of the building which the appellants' state equates to around a 20% reduction in its gross

³ What are permitted development rights?, Paragraph: 105 Reference ID: 13-105-20150305 (Revision date 05 03 2015)

external area. I acknowledge that this part of the building could have been demolished prior to the application being submitted. However, I am required to determine the appeal on the basis of the submitted plans.

12. The proposal would involve the use of the steel frame and the existing blockwork walls that are not to be demolished. The corrugated roof and timber cladding would be removed and replaced. New windows, doors and rooflights would be inserted. However, it is not clear from the details submitted as to the extent or height of any new blockwork walls. I also note that there is no detail provided as to whether the existing concrete panels would be retained or not. Nevertheless, as the appellants have stated that new walls are to be constructed on approximately 9m of the west elevation and 5m of the south elevation I have taken this to mean that the concrete panels would be removed.
13. The appellants have stated that 75% of the existing walls would be retained. However, the resultant structure, once the demolition and removal of the cladding and concrete panels has occurred, would have a number of mainly open elevations that would require infill to construct exterior walls suitable for a residential dwelling. As such, a substantial amount of new blockwork, timber cladding or glazing would be added to these elevations. While I accept that substantial works could fall under the scope of building operations within Class Q, in the proposal before me, the structure would only be capable of functioning as a dwelling following the substantial reconstruction of a significant amount of the exterior walls and the replacement of the whole of the roof cladding. This would, in my view go beyond what could reasonably be described as conversion and would be so extensive as to comprise rebuilding.
14. Furthermore, whilst I note the appellants' views that the structural capability of the existing building is self-evident and that the insistence of providing a structural assessment for this type of application appears to contradict the spirit of a streamlined planning process as envisaged by the permitted development legislation. Paragraph W of the GPDO makes it clear that the onus is on the developer to provide sufficient information to establish whether the proposed development complies with any conditions, limitations or restrictions of Class Q.
15. The submitted design and access statement does state that the blockwork would be battened and plasterboard attached with insulation inserted between the two skins. However, if the blockwork remains at the present height there would be large areas above that blockwork where the only specification provided is that it would be timber clad. I acknowledge that the appellants state that the new walls would not be structural but infill.
16. Nonetheless, owing to the extent of demolition and replacement involved, I cannot conclude that the proposed works would not be structural in nature. I also have no information before me that demonstrates that the new infill to the walls and the existing roof structure would not need new structural elements to support the additional weight of the proposed works which include windows, large glazed panels and rooflights.
17. Consequently, there is insufficient information to conclude that the existing building is capable of functioning as a dwelling without significant structural works. Moreover, the evidence I do have suggests that what is proposed would

go beyond what is 'reasonably necessary' to convert the building and would constitute what is essentially a rebuild.

18. I also note the examples of other Prior Approval cases put forward by both parties. However, I do not have full details of those schemes or the extent of the works involved in them. As such, I cannot be certain that they raise the same issues identified above and accordingly do not consider that they provide a justifiable precedent for the development proposed. In any case, I am required to determine the appeal on its individual merits.
19. 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

20. 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

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

D. Boffin

INSPECTOR