
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/17/3168842

Building at Mount Pleasant Farm, Rockhampton, Berkeley, South Gloucestershire GL13 9DU

- 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 Mr Geoff Locke against the decision of South Gloucestershire Council.
 - The application Ref PT16/5722/PNGR, dated 6 October 2016, was refused by notice dated 11 January 2017.
 - The development proposed is to change the use of 1 existing traditional agricultural building to provide 1 single level 1 bedroom property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the appellant's name from the appeal form as the name on the application form '*Mrs Geoff Locke*' appears to be a typographical error. 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. The appellant submitted an amended plan 70520/01/101 Rev C with the appeal in relation to the retention of a timber post on the east elevation and retaining the existing ground floor levels. Such a revision is of a very minor nature such that the substance of the scheme has not changed. As a result I find that no party would be prejudiced by my consideration of its content. Therefore, I have determined the appeal taking into account the revised plan as an amendment to the original application submission.
4. 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)).

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

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

5. 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.
6. 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 different view in terms of those Class Q requirements. However, the Council refused the application for prior approval because it considered that insufficient information had been provided to demonstrate that the proposed development would accord with Class Q(b) by reason of consisting of building operations other than those permitted under paragraph Q.1(i).

Main Issues

7. 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

8. Paragraph Q.1(i) of the GPDO states that development is not permitted by Class Q if the development under Class Q (b) would consist of building operations other than: the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling.
9. The agricultural building in question is of predominantly stone wall construction with a pitched roof of clay pantiles and corrugated metal sheets. The east elevation contains a large opening with a central timber post on a concrete pad and the north elevation is blockwork with timber cladding above.
10. The PPG³ states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. Nonetheless, it 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. The PPG 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.

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

11. The appellant has provided a structural report which was prepared by a qualified Civil and Structural Engineer. The report concludes that "*we cannot foresee any major structural reasons why the barn cannot be successfully converted into domestic accommodation*". However, whilst this states that some additional cross walls could be built from a thickened floor slab it does not mention the construction of the infill panels/wall to the east elevation and any foundations or structural support for them.
12. I acknowledge that the retention of the central timber post in the east elevation opening is possible and that the appellant has stated that no new structural elements are proposed. Nonetheless, I have little detail before me of the construction specification for the proposed infill panels/wall to the east elevation. However, the submitted drawing appears to show brickwork below the door and infill panels. I noted at my site visit that the floor surface in the northern part of the building, adjacent to the opening in the eastern elevation, appears to be compacted earth and that there are remnants of a solid floor construction at the higher ground level below the existing internal cross wall. As such, there may be a solid floor in the southern part of the building but it was not possible to ascertain this as it is presently covered in gravel.
13. While it is possible that the internal works would be excluded from the definition of development by the effect of S55(2)(a) of the Town and Country Planning Act 1990, the appellant has not produced evidence to demonstrate that additional works such as foundations would not be required in order to construct the proposed infill panels/wall. The excavation and installation of foundations are not included in the list of permitted operational development, and if this work is reasonably necessary to convert the barn into a dwelling, it would not fall within the permitted development right.
14. I acknowledge that there is no indication from the structural report or from my observations on site that the blockwork wall on the northern elevation would need to be rebuilt. There is a 'bulge' to the central section of the western wall and I note that the structural report considers that this is probably due to previous roof spread when the northern part of the building had a tiled roof.
15. In my experience this is a reasonable finding and the proposal would involve the use of a metal tiled sheet which would be highly likely to be lighter than clay tiles. As such the previous roof spread would not be exacerbated by the proposed works. There is no evidence before me to indicate that the roof spread is anything other than historic. The proposal to use helical ties between the new and additional walls would provide restraint to the western wall. This type of work is carried out traditionally as part of conversion schemes but I consider that the building could be converted without it.
16. The existing walls would be dry lined using stud partitioning and this would be a lightweight addition to the building. Moreover, the roof timbers appeared to be in a reasonable condition and I noted that metal traditional repairs had been used in places on the timbers. I have no evidence in front of me to indicate that structural timbers within the roof structure would need to be replaced. Furthermore, even though the structural report has not inspected the existing foundations the existing stone walls are substantial in construction and I have no reason to consider that they would need additional structural support.

17. I have had regard to the recent High Court judgement in the Hibbitt case⁴ which states that *"it can be said that one reason for this conclusion is that a development that includes "new structural elements" is one that involves a degree of rebuild and is not a conversion"*. I am not convinced that the proposed works would be so extensive so as to constitute the construction of (or 'fresh build') a new building but there is uncertainty as to whether additional foundations to the infill panels/wall would be necessary.
18. In order to benefit from the permitted developments rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must only involve building operations reasonably necessary to convert the building in accordance with the definition at Q(b) and Q.1(i). Based on the evidence before me and my own observations of the agricultural building, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to be permitted development under Class Q.
19. I conclude that, based on the evidence before me, the proposed change of use 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

⁴ Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)